Montana Legislature in Special Session
December 2005

History and Final Status • Laws of Montana (Session Laws)
Montana Code Annotated

59th MONTANA LEGISLATURE DECEMBER 2005 SPECIAL SESSION
Held at Helena, the Seat of Government, December 14 & 15, 2005

HISTORY AND FINAL STATUS OF BILLS AND RESOLUTIONS

LAWS OF MONTANA (SESSION LAWS)

MONTANA CODE ANNOTATED
Adopted by Chapter 1, Laws of 1979

GENERAL INDEX

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December 2005 Special Session

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OFFICERS AND MEMBERS OF THE MONTANA SENATE 2005

50 Members

27 Democrats 23 Republicans

OFFICERS

President . . . . . Jon Tester
President Pro Tempore . . . . . Dan Harrington
Majority Leader . . . . . Jon Ellingson
Majority Whips . . . . . Carolyn Squires, Trudi Schmidt
Minority Leader . . . . . Bob Keenan
Minority Whips . . . . . Corey Stapleton, Robert Story
Secretary of the Senate . . . . . Bill Lombardi

MEMBERS

Name	Preferred Mailing Address	District	Party
Bales, Keith	HC 39 Box 33, Otter MT 59062-9703	20	R
Balyeat, Joe	6909 Rising Eagle Rd, Bozeman MT 59715-8621	34	R
Barkus, Greg	PO Box 2647, Kalispell MT 59903-2647	4	R
Black, Jerry	445 O'Haire Blvd, Shelby MT 59474-1950	14	R
Brueggeman, John	321 Lakeview Dr, Polson MT 59860-9317	6	R
Cobb, John	PO Box 388, Augusta MT 59410-0388	9	R
Cocchiarella, Vicki	535 Livingston Ave, Missoula MT 59801-8003	47	D
Cooney, Mike	713 Pyrite Court, Helena MT 59601-5877	40	D
Cromley, Brent	PO Box 2559, Billings MT 59103-2559	25	D
Curtiss, Aubyn	PO Box 216, Fortine MT 59918-0216	1	R
Ellingson, Jon	141 North Ave E, Missoula MT 59801-6011	49	D
Elliott, Jim	100 Trout Creek Rd, Trout Creek MT 59874-9609	7	D
Esp, John	PO Box 1024, Big Timber MT 59011-1024	31	R
Essmann, Jeff	PO Box 80945, Billings MT 59102-6525	28	R
Gallus, Steve	2319 Harvard Ave, Butte MT 59701-3854	37	D
Gebhardt, Kelly	PO Box 724, Roundup MT 59072-0724	23	R
Gillan, Kim	750 Judicial Ave, Billings MT 59105-2130	24	D
Grimes, Duane	4 Hole in the Wall, Clancy MT 59634-9516	39	R
Hansen, Ken "Kim"	PO Box 686, Harlem MT 59526-0686	17	D
Harrington, Dan	1201 N Excelsior Ave, Butte MT 59701-8505	38	D
Hawks, Bob	703 W Koch St, Bozeman MT 59715-4477	33	D
Keenan, Bob	PO Box 697, Bigfork MT 59911-0697	5	R
Kitzenberg, Sam	130 Bonnie St Apt 1, Glasgow MT 59230-2101	18	R
Laible, Rick	529 Moose Hollow Rd, Victor MT 59875-9303	44	R
Larson, Lane	1417 Cedar Canyon Rd, Billings MT 59101-6440	22	D
Laslovich, Jesse	112 Mountain View St, Anaconda MT 59711-1616	43	D
Lewis, Dave	5871 Collins Rd, Helena MT 59602-9584	42	R
Lind, Greg	PO Box 16720, Missoula MT 59808-6720	50	D
Mangan, Jeff	1223 7th Ave N, Great Falls MT 59401-1613	12	D
McGee, Dan	1925 Pinyon Dr, Laurel MT 59044-9381	29	R
Moss, Lynda	552 Highland Park Dr, Billings MT 59102-1046	26	D
O'Neil, Jerry	985 Walsh Rd, Columbia Falls MT 59912	3	R
Pease, Gerald	PO Box 556, Lodge Grass MT 59050-0556	21	D
Perry, Gary	3325 W Cedar Meadow Ln, Manhattan MT 59741-8240	35	R
Roush, Glenn	PO Box 185, Cut Bank MT 59427-0185	8	D
Ryan, Don	2101 7th Ave S, Great Falls MT 59405-2821	10	D
Schmidt, Trudi	4029 6th Ave S, Great Falls MT 59405-3746	11	D
Shockley, Jim	PO Box 608, Victor MT 59875-0608	45	R
Smith, Frank	PO Box 729, Poplar MT 59255-0729	16	D
Squires, Carolyn	2111 S 10th St W, Missoula MT 59801-3412	48	D
Stapleton, Corey	2015 Eastridge Dr, Billings MT 59102-7904	27	R
Steinbeisser, Don	RR 1 Box 3400, Sidney MT 59270-9620	19	R
Story, Robert	133 Valley Creek Rd, Park City MT 59063-8040	30	R

Tash, Bill	240 Vista Dr, Dillon MT 59725-3111	36	R
Tester, Jon	709 Son Ln, Big Sandy MT 59520-8443	15	D
Toole, Ken	PO Box 1462, Helena MT 59624-1462	41	D
Tropila, Joe	209 2nd St NW, Great Falls MT 59404-1301	13	D
Weinberg, Dan	575 Delrey Rd, Whitefish MT 59937-8042	2	D
Wheat, Mike	930 Stonegate Dr, Bozeman MT 59715-2109	32	D
Williams, Carol	PO Box 9176, Missoula MT 59807-9176	46	D

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OFFICERS AND MEMBERS
OF THE MONTANA HOUSE OF REPRESENTATIVES
2005

100 Members

50 Democrats 50 Republicans

OFFICERS

Speaker . . . . . Gary Matthews
House Democratic Leader. . . . . David Wanzenried
House Democratic Floor Leader . . . . . John Parker
House Democratic Whips . . . . . Bob Bergren, Gail Gutsche
House Republican Leader . . . . . Roy Brown
House Republican Floor Leader . . . . . Michael Lange
House Republican Whips . . . . . Debby Barrett, Dennis Himmelberger
Chief Clerk of the House . . . . . Marilyn Miller

MEMBERS

Name	Preferred Mailing Address	District	Party
Andersen, Joan	RR 1 Box 1012, Fromberg MT 59029-9701	59	R
Arntzen, Elsie	850 Senora Ave, Billings MT 59105-2051	53	R
Balyeat, John	4879 Scott Allen Dr, Missoula MT 59803-2793	100	R
Barrett, Debby	17600 MT Hwy 324, Dillon MT 59725-9657	72	R
Becker, Arlene	1440 Lewis Ave, Billings MT 59101-4240	52	D
Bergren, Bob	1132 26th Ave W, Havre MT 59501-8609	33	D
Bixby, Norma	PO Box 1165, Lame Deer MT 59043-1165	41	D
Branae, Gary	415 Yellowstone Ave, Billings MT 59101-1730	54	D
Brown, Dee	PO Box 444, Hungry Horse MT 59919-0444	3	R
Brown, Roy	PO Box 22273, Billings MT 59104-2273	49	R
Butcher, Ed	PO Box 89, Winifred MT 59489-0089	29	R
Buzzas, Rosalie "Rosie"	233 University Ave, Missoula MT 59801-4351	93	D
Caferro, Mary	PO Box 1036, Helena MT 59624-1036	80	D
Callahan, Tim	3409 5th Ave S, Great Falls MT 59405-3543	21	D
Campbell, Margarett	PO Box 228, Poplar MT 59255-0228	31	D
Clark, Paul	20 Fox Ln, Trout Creek MT 59874-9510	13	D
Cohenour, Jill	2610 Colt Dr, East Helena MT 59635-3442	78	D
Dickenson, Sue	620 Riverview Dr E, Great Falls MT 59404-1637	25	D
Dowell, Tim	46 West View Dr, Kalispell MT 59901-3364	8	D
Driscoll, Robyn	724 N 16th St, Billings MT 59101-0418	51	D
Eaton, Emelie	PO Box 159, Laurel MT 59044-0159	58	D
Everett, George	1344 Helena Flats Rd, Kalispell MT 59901-6548	5	R
Facey, Tom	418 Plymouth St, Missoula MT 59801-4133	95	D
Franklin, Eve	PO Box 6507, Great Falls MT 59406-6507	24	D
Furey, Kevin	1861 E Broadway St, Missoula MT 59802-4903	91	D
Gallik, Dave	1124 Billings Ave, Helena MT 59601-3505	79	D
Galvin-Halcro, Kathleen	101 Riverview Dr E, Great Falls MT 59404-1547	26	D
Glaser, Bill	1402 Indian Creek Rd, Huntley MT 59037-9338	44	R
Golie, George	316 20th Ave S, Great Falls MT 59405-4131	20	D
Grinde, Wanda	1910 Bannack Dr, Billings MT 59105-4236	48	D
Groesbeck, George	2214 Ottawa St Apt B, Butte MT 59701-6105	74	D
Gutsche, Gail	1530 Cooper St, Missoula MT 59802-2220	99	D
Hamilton, Robin	330 Daly Ave, Missoula MT 59801-4338	92	D
Harris, Chris	1511 W Babcock St, Bozeman MT 59715-4139	66	D
Hawk, Ray	NW 4878 Hoblitt Ln, Florence MT 59833-6832	90	R
Heinert, Ralph	PO Box 577, Libby MT 59923-0577	1	R
Hendrick, Gordon	PO Box 262, Superior MT 59872-0262	14	R
Henry, Teresa	204 Chestnut St, Missoula MT 59801-1809	96	D
Himmelberger, Dennis	PO Box 22272, Billings MT 59104-2272	47	R
Hiner, Cynthia	1027 Kentucky St, Deer Lodge MT 59722-2041	85	D
Jackson, Verdell	555 Wagner Ln, Kalispell MT 59901-8079	6	R
Jacobson, Hal	4813 US Hwy 12 W, Helena MT 59601-9694	82	D

Jayne, Joey	299 Lumpry Rd, Arlee MT 59821-9747	15	D
Jent, Larry	1201 S 3rd St, Bozeman MT 59715-5503	64	D
Jones, Llew	1102 4th Ave SW, Conrad MT 59425-1919	27	R
Jones, Bill	567 East Village Dr, Bigfork MT 59911-6152	9	R
Jopek, Mike	PO Box 4272, Whitefish MT 59937-4272	4	D
Juneau, Carol	PO Box 55, Browning MT 59417-0055	16	D
Kaufmann, Christine	825 Breckenridge St, Helena MT 59601-4433	81	D
Keane, Jim	2131 Wall St, Butte MT 59701-5527	75	D
Klock, Harry	PO Box 452, Harlowton MT 59036-0452	83	R
Koopman, Roger	811 S Tracy Ave, Bozeman MT 59715-5325	70	R
Lake, Bob	PO Box 2096, Hamilton MT 59840-2096	88	R
Lambert, Carol	PO Box 2, Broadus MT 59317-0002	39	R
Lange, Michael	208 Fair Park Dr, Billings MT 59102-5734	55	R
Lenhart, Ralph	PO Box 1225, Glendive MT 59330-1225	38	D
Lindeen, Monica	1626 Heath St, Huntley MT 59037-9137	43	D
MacLaren, Gary	429 Curlew Orchard Rd, Victor MT 59875-9519	89	R
Maedje, Rick	PO Box 447, Fortine MT 59918-0447	2	R
Malcolm, Bruce	2319 Hwy 89 S, Emigrant MT 59027-6023	61	R
Matthews, Gary	1708 Main St, Miles City MT 59301-3652	40	D
McAlpin, Dave	800 Woodworth Ave, Missoula MT 59801-7046	94	D
McGillvray, Tom	3642 Donna Dr, Billings MT 59102-1119	50	R
McKenney, Joe	500 Deer Dr, Great Falls MT 59404-3829	18	R
McNutt, Walt	110 12th Ave SW, Sidney MT 59270-3614	37	R
Mendenhall, Scott	214 Solomon Mountain Rd, Clancy MT 59634-9213	77	R
Milburn, Mike	276 Chestnut Valley Rd, Cascade MT 59421-8204	19	R
Morgan, Penny	3401 Waterloo Cir, Billings MT 59101-8000	57	R
Musgrove, John	810 8th St, Havre MT 59501-4127	34	D
Noennig, Mark	3441 Powderhorn Cir, Billings MT 59102-0332	46	R
Noonan, Art	1621 Whitman Ave, Butte MT 59701-5380	73	D
Olson, Alan	18 Halfbreed Creek Rd, Roundup MT 59072-6524	45	R
Olson, Bernie	161 Lakeside Blvd, Lakeside MT 59922-9723	10	R
Parker, John	PO Box 558, Great Falls MT 59403-0558	23	D
Peterson, Jim	RR 1 Box 2, Buffalo MT 59418-9501	30	R
Raser, Holly	4304 Spurgin Rd, Missoula MT 59804-4520	98	D
Rice, Diane	PO Box 216, Harrison MT 59735-0216	71	R
Ripley, Rick	8920 MT Hwy 200, Wolf Creek MT 59648-8639	17	R
Roberts, Don	5414 Walter Hagen Dr, Billings MT 59106-1007	56	R
Ross, John	129 N Stillwater Rd, Absarokee MT 59001-6235	60	R
Sales, Scott	5200 Bostwick Rd, Bozeman MT 59715-7721	68	R
Sesso, Jon	155 W Granite, Butte MT 59701-9256	76	D
Sinrud, John	284 Frontier Dr, Bozeman MT 59718-7975	67	R
Small-Eastman, Veronica	PO Box 262, Lodge Grass MT 59050-0262	42	D
Sonju, Jon	PO Box 2954, Kalispell MT 59903-2954	7	R
Stahl, Wayne	PO Box 345, Saco MT 59261-0345	35	R
Stoker, Ron	PO Box 1059, Darby MT 59829-1059	87	R
Taylor, Janna	PO Box 233, Dayton MT 59914-0233	11	R
Villa, Dan	1619 W Park Ave, Anaconda MT 59711-1831	86	D
Wagman, Pat	202 S 9th St, Livingston MT 59047-2906	62	R
Waitschies, Karl	PO Box A-18, Peerless MT 59253	36	R
Wanzenried, David	903 Sky Dr, Missoula MT 59804-3121	97	D
Ward, John	4525 Glass Dr, Helena MT 59602-9509	84	R
Warden, Bill	6507 Leverich Ln, Bozeman MT 59715-9535	63	R
Wells, Jack	150 Coulee Dr, Bozeman MT 59718-7717	69	R
Wilson, Bill	1305 2nd Ave N, Great Falls MT 59401-3217	22	D
Windham, Jeanne	894 Finley Point Rd, Polson MT 59860-9171	12	D
Windy Boy, Jonathan	PO Box 269, Box Elder MT 59521-0269	32	D
Wiseman, Brady	2 Haley Rd, Bozeman MT 59715-9525	65	D
Witt, John	2555 Russell Rd, Carter MT 59420-8230	28	R

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HB 2

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HJ 1

RYAN, DON
SB 1

SQUIRES, CAROLYN
SR 3

STATE ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE
HB 2

WAGMAN, PAT
HB 4

WANZENRIED, DAVID
HB 1

WHEAT, MIKE
SR 1 SR 2

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SENATE BILLS AND RESOLUTIONS

SB 1 INTRODUCED BY D. RYAN *LC0001 DRAFTER: PETESCH*

GOVERNOR'S SCHOOL FUNDING PROPOSAL

BY REQUEST OF GOVERNOR

12/05	FISCAL NOTE NEEDED		
12/07	INTRODUCED		
12/08	FISCAL NOTE REQUESTED		
12/09	REFERRED TO EDUCATION AND CULTURAL RESOURCES		
12/14	FISCAL NOTE RECEIVED		
12/14	FISCAL NOTE SIGNED		
12/14	HEARING		
12/14	FISCAL NOTE PRINTED		
12/14	COMMITTEE EXECUTIVE ACTION—BILL PASSED AS AMENDED	10	1
12/14	COMMITTEE REPORT—BILL PASSED AS AMENDED		
12/14	REVISED FISCAL NOTE REQUESTED		
12/15	REVISED FISCAL NOTE RECEIVED		
12/15	REVISED FISCAL NOTE SIGNED		
12/15	REVISED FISCAL NOTE PRINTED		
12/15	2ND READING PASSED AS AMENDED	28	22
12/15	3RD READING PASSED	30	20
	TRANSMITTED TO HOUSE		
12/15	REFERRED TO EDUCATION		
12/15	HEARING		
12/15	SPECIAL ACTION TAKEN	8	8
12/15	2ND READING CONCURRED	54	46
12/15	3RD READING CONCURRED	55	42
	RETURNED TO SENATE		
12/16	SENT TO ENROLLING		
12/16	RETURNED FROM ENROLLING		
12/16	SIGNED BY PRESIDENT		
12/16	SIGNED BY SPEAKER		
12/16	TRANSMITTED TO GOVERNOR		
12/19	SIGNED BY GOVERNOR		
12/19	CHAPTER NUMBER ASSIGNED		
	CHAPTER NUMBER 4		
	EFFECTIVE DATE: 7/01/2006 - ALL SECTIONS		

SR 1 INTRODUCED BY WHEAT *LC0004 DRAFTER: LANE*

CONFIRM WATER JUDGE

BY REQUEST OF GOVERNOR

12/07	INTRODUCED		
12/09	REFERRED TO JUDICIARY		
12/14	HEARING		
12/14	COMMITTEE EXECUTIVE ACTION—RESOLUTION ADOPTED	11	0
12/14	COMMITTEE REPORT—RESOLUTION ADOPTED		
12/14	RESOLUTION ADOPTED	50	0
12/14	SENT TO ENROLLING		
12/14	RETURNED FROM ENROLLING		
12/14	SIGNED BY PRESIDENT		
12/14	FILED WITH SECRETARY OF STATE		

SR 2 INTRODUCED BY WHEAT *LC0007 DRAFTER: LANE*

CONFIRM WORKER'S COMPENSATION JUDGE

BY REQUEST OF GOVERNOR

12/07	INTRODUCED		
12/09	REFERRED TO JUDICIARY		
12/14	HEARING		
12/14	COMMITTEE EXECUTIVE ACTION—RESOLUTION ADOPTED	11	0
12/14	COMMITTEE REPORT—RESOLUTION ADOPTED		
12/14	RESOLUTION ADOPTED	49	1
12/14	SENT TO ENROLLING		
12/14	RETURNED FROM ENROLLING		
12/14	SIGNED BY PRESIDENT		
12/14	FILED WITH SECRETARY OF STATE		

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SR 3 INTRODUCED BY SQUIRES *LC0003 DRAFTER: BOHYER*

CONFIRM JOAN MILES AS DPHHS DIRECTOR

BY REQUEST OF GOVERNOR

12/07	INTRODUCED		
12/09	REFERRED TO STATE ADMINISTRATION		
12/14	HEARING		
12/14	COMMITTEE EXECUTIVE ACTION—RESOLUTION ADOPTED	11	0
12/14	COMMITTEE REPORT—RESOLUTION ADOPTED		
12/14	RESOLUTION ADOPTED	48	2
12/14	SENT TO ENROLLING		
12/14	RETURNED FROM ENROLLING		
12/14	SIGNED BY PRESIDENT		
12/14	FILED WITH SECRETARY OF STATE		

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HOUSE BILLS AND RESOLUTIONS

HB 1 INTRODUCED BY WANZENRIED *LC0002 DRAFTER: PETESCH*

APPROPRIATE FUNDS FOR SCHOOLS, TRS, AND PERS

BY REQUEST OF GOVERNOR

12/07	INTRODUCED		
12/08	FISCAL NOTE REQUESTED		
12/12	REFERRED TO APPROPRIATIONS		
12/14	FISCAL NOTE RECEIVED		
12/14	HEARING		
12/14	FISCAL NOTE PRINTED		
12/14	SPECIAL ACTION TAKEN		
12/14	2ND READING PASSED	51	49
12/14	3RD READING PASSED	51	49
	TRANSMITTED TO SENATE		
12/15	REFERRED TO FINANCE AND CLAIMS		
12/15	HEARING		
12/15	COMMITTEE EXECUTIVE ACTION—BILL CONCURRED AS AMENDED	11	8
12/15	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
12/15	2ND READING CONCURRED	31	19
12/15	3RD READING CONCURRED	31	19
	RETURNED TO HOUSE WITH AMENDMENTS		
12/15	2ND READING SENATE AMENDMENTS CONCURRED	52	45
12/15	3RD READING PASSED AS AMENDED BY SENATE	54	42
12/16	SENT TO ENROLLING		
12/16	RETURNED FROM ENROLLING		
12/16	SIGNED BY SPEAKER		
12/16	SIGNED BY PRESIDENT		
12/16	TRANSMITTED TO GOVERNOR		
12/16	SIGNED BY GOVERNOR		
12/19	CHAPTER NUMBER ASSIGNED		
	CHAPTER NUMBER 1		
	EFFECTIVE DATE: 12/16/2005 - SECTIONS 1(1), (3), (9), AND (10), AND 3		
	EFFECTIVE DATE: 7/01/2006 - SECTIONS 1(2), (4)-(8), AND 2		

HB 2 INTRODUCED BY JACKSON *LC0006 DRAFTER: BOHYER*

EXPAND DUTIES OF STATE ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE

BY REQUEST OF STATE ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE

12/07	INTRODUCED		
12/08	FISCAL NOTE REQUESTED		
12/12	REFERRED TO STATE ADMINISTRATION		
12/14	FISCAL NOTE RECEIVED		
12/14	HEARING		
12/14	FISCAL NOTE PRINTED		
12/14	COMMITTEE EXECUTIVE ACTION—BILL PASSED AS AMENDED	11	5
12/14	COMMITTEE REPORT—BILL PASSED AS AMENDED		
12/14	2ND READING PASSED	95	5
12/14	3RD READING PASSED	92	8
	TRANSMITTED TO SENATE		
12/15	REFERRED TO STATE ADMINISTRATION		
12/15	HEARING		
12/15	COMMITTEE EXECUTIVE ACTION—BILL CONCURRED	10	1
12/15	COMMITTEE REPORT—BILL CONCURRED		
12/15	2ND READING CONCURRED	50	0
12/15	3RD READING CONCURRED	50	0
	RETURNED TO HOUSE		
12/16	SENT TO ENROLLING		
12/16	RETURNED FROM ENROLLING		
12/16	SIGNED BY SPEAKER		
12/16	SIGNED BY PRESIDENT		
12/16	TRANSMITTED TO GOVERNOR		
12/19	SIGNED BY GOVERNOR		
12/19	CHAPTER NUMBER ASSIGNED		
	CHAPTER NUMBER 2		
	EFFECTIVE DATE: 12/19/2005 - ALL SECTIONS		

HB 3 INTRODUCED BY GLASER *LC0008 DRAFTER: PETESCH*

REVISE SCHOOL FUNDING

12/06	FISCAL NOTE NEEDED		
12/09	INTRODUCED		
12/09	FISCAL NOTE REQUESTED		
12/12	REFERRED TO EDUCATION		
12/14	FISCAL NOTE RECEIVED		
12/14	HEARING		
12/14	FISCAL NOTE PRINTED		
	DIED IN STANDING COMMITTEE		

HB 4 INTRODUCED BY WAGMAN *LC0009 DRAFTER: MCCLURE*

QUALITY SCHOOLS INTERIM COMMITTEE SCHOOL FUNDING MODEL

12/07	FISCAL NOTE NEEDED		
12/12	INTRODUCED		
12/13	REFERRED TO EDUCATION		
12/13	FISCAL NOTE REQUESTED		
12/14	HEARING		
12/15	SPECIAL ACTION TAKEN	8	8
12/15	REREFERRED TO APPROPRIATIONS		
12/15	HEARING		
12/15	FISCAL NOTE RECEIVED		
12/15	FISCAL NOTE PRINTED		
12/15	TABLED IN COMMITTEE		
	DIED IN STANDING COMMITTEE		

HB 5 INTRODUCED BY BUZZAS *LC0005 DRAFTER: MENZIES*

FEED BILL

12/12	INTRODUCED		
12/13	REFERRED TO APPROPRIATIONS		
12/14	HEARING		
12/14	COMMITTEE EXECUTIVE ACTION—BILL PASSED	11	9
12/14	COMMITTEE REPORT—BILL PASSED		
12/14	2ND READING PASSED	76	24
12/14	3RD READING PASSED	73	25
	TRANSMITTED TO SENATE		
12/14	REFERRED TO FINANCE AND CLAIMS		
12/15	HEARING		
12/15	COMMITTEE EXECUTIVE ACTION—BILL CONCURRED	17	0
12/15	COMMITTEE REPORT—BILL CONCURRED		
12/15	2ND READING CONCURRED AS AMENDED	50	0
12/15	3RD READING CONCURRED	50	0
	RETURNED TO HOUSE WITH AMENDMENTS		
12/15	2ND READING SENATE AMENDMENTS CONCURRED	95	2
12/15	3RD READING PASSED AS AMENDED BY SENATE	90	7
12/16	SENT TO ENROLLING		
12/16	RETURNED FROM ENROLLING		
12/16	SIGNED BY SPEAKER		
12/16	SIGNED BY PRESIDENT		
12/16	TRANSMITTED TO GOVERNOR		
12/19	SIGNED BY GOVERNOR		
12/19	CHAPTER NUMBER ASSIGNED		
	CHAPTER NUMBER 3		
	EFFECTIVE DATE: 12/19/2005 - ALL SECTIONS		

HB 6 INTRODUCED BY GOLIE *LC0011 DRAFTER: PETESCH*

RETIREMENT SYSTEMS TO PREPARE ANNUAL REPORT

12/15	FISCAL NOTE NEEDED		
12/15	INTRODUCED		
12/15	REFERRED TO STATE ADMINISTRATION		
12/15	FISCAL NOTE REQUESTED		
12/15	HEARING		
12/15	COMMITTEE REPORT—BILL PASSED AS AMENDED		
12/15	2ND READING PASSED AS AMENDED	87	10
12/15	3RD READING PASSED	90	7
	DIED IN PROCESS		

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HB 7 INTRODUCED BY BARRETT *LC0013 DRAFTER: LEE EVANS*

ELIMINATE WATER ADJUDICATION FEE AND FUND THROUGH GENERAL FUND

12/15 INTRODUCED
12/15 REFERRED TO APPROPRIATIONS
12/15 FISCAL NOTE REQUESTED
DIED IN PROCESS

HB 8 INTRODUCED BY KEANE *LC0014 DRAFTER: PETESCH*

FUND IMPLEMENTATION OF MONTANA EQUITY CAPITAL INVESTMENT ACT

12/15 INTRODUCED
12/15 REFERRED TO APPROPRIATIONS
DIED IN PROCESS

HJ 1 INTRODUCED BY LAKE *LC0010 DRAFTER: MARTIN*

REVENUE ESTIMATING RESOLUTION

BY REQUEST OF REVENUE AND TRANSPORTATION INTERIM COMMITTEE

12/14 INTRODUCED
12/14 REFERRED TO TAXATION
12/14 REREFERRED TO APPROPRIATIONS
12/15 HEARING
12/15 SPECIAL ACTION TAKEN 10 10

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LAWS OF MONTANA (SESSION LAWS)

RESOLUTIONS

DECEMBER 2005 SPECIAL SESSION

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LAWS OF MONTANA (SESSION LAWS)
Enacted by the 59th Montana Legislature in Special Session

Explanatory Note: Section 5-11-205, MCA, provides that new parts of existing statutes be printed in italics and that deleted provisions be shown as stricken.

CHAPTER NO. 1

[HB 1]

AN ACT APPROPRIATING MONEY FOR THE PURPOSES SPECIFIED IN THE CALL FOR THE SPECIAL SESSION AND FOR OTHER PURPOSES RELATED TO THE ITEMS SPECIFIED IN THE CALL; APPROPRIATING MONEY FROM THE STATE GENERAL FUND TO THE DEPARTMENT OF ADMINISTRATION FOR A CONDITION AND NEEDS ASSESSMENT AND ENERGY AUDIT OF K-12 PUBLIC SCHOOL FACILITIES; APPROPRIATING MONEY FROM THE STATE GENERAL FUND TO THE OFFICE OF PUBLIC INSTRUCTION FOR DISTRIBUTION TO SCHOOL DISTRICTS FOR THE COSTS OF WEATHERIZATION OR DEFERRED MAINTENANCE, FOR ENERGY COST RELIEF, FOR INDIAN EDUCATION FOR ALL, FOR AT-RISK STUDENT PAYMENTS, FOR TRANSPORTATION PAYMENTS, AND FOR BASE AID; APPROPRIATING MONEY FROM THE GENERAL FUND TO THE MONTANA SCHOOL FOR THE DEAF AND BLIND AND TO THE DEPARTMENT OF CORRECTIONS; APPROPRIATING MONEY FROM THE GENERAL FUND TO THE TEACHERS' RETIREMENT SYSTEM PENSION TRUST FUND; APPROPRIATING MONEY FROM THE GENERAL FUND TO THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM PENSION TRUST FUND; AND PROVIDING EFFECTIVE DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Appropriations. (1) (a) There is appropriated $2.5 million from the general fund to the department of administration to be used through June 30, 2009, to pay for the costs of completing a condition and needs assessment and energy audit of K-12 public school facilities or for contracting with a private vendor to complete a condition and needs assessment and energy audit of K-12 public school facilities in the state.

(b) The department shall work in conjunction with the legislative finance committee to design the process for collecting and analyzing data, including data related to the total square footage, the percentage of the total square footage that is being utilized for educational programs, and the square footage per student, to be used in the facility condition and needs assessment and energy audit.

(c) On or before July 1, 2008, the department of administration shall report the findings and recommendations of the K-12 public school facility condition and needs assessment and energy audit to the appropriate committee of the legislature.

(2) (a) There is appropriated $23 million from the general fund to the office of public instruction to be distributed as follows to each school district to pay for the costs of weatherization or deferred maintenance in the district:

(i) $1,000 for each district; and

(ii) $153 for each ANB, calculated as provided in 20-9-311, in each district.

(b) Each district that receives money under subsection (2)(a):

(i) shall deposit the money in the miscellaneous programs fund;

(ii) may retain the money for a maximum of 3 years and shall return any unexpended balance to the state for deposit in the general fund; and

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(iii) may use the money as a match for any other local, state, or federal money.

(c) A district may not transfer money received under this subsection (2) to another fund.

(3) (a) There is appropriated $2 million from the general fund to the office of public instruction for energy cost relief to be used for utilities or transportation only. The office of public instruction shall distribute the money to school districts on a per-ANB basis, calculated as provided in 20-9-311.

(b) A district receiving funds under this subsection (3) shall deposit the money in the miscellaneous programs fund and may not transfer money received under this subsection (3) to another fund.

(4) (a) There is appropriated $7 million from the general fund to the office of public instruction for Indian education for all to be allocated to districts on a per-ANB basis, calculated as provided in 20-9-311.

(b) A district receiving funds under this subsection (4) shall deposit the money in the miscellaneous programs fund and may not transfer money received under this subsection (4) to another fund.

(5) There is appropriated $28,668,278 from the general fund to the office of public instruction for BASE aid to public schools as provided for in Senate Bill No. 1.

(6) There is appropriated $5 million from the general fund to the office of public instruction for at-risk student payments, as provided for in Senate Bill No. 1.

(7) The following is appropriated from the general fund to provide funding for the quality educator, Indian education for all, and American Indian achievement gap components at the Montana school for the deaf and blind and Pine Hills and Riverside youth correctional facilities:

Montana school for the deaf and blind	$85,000
Department of corrections	$63,800

(8) There is appropriated $130,000 from the general fund to the office of public instruction for transportation payments.

(9) There is appropriated $100 million from the general fund to the teachers' retirement system pension trust fund.

(10) There is appropriated $25 million from the general fund to the public employees' retirement system pension trust fund.

Section 2. Contingent voidness. If Senate Bill No. 1 is not passed and approved, then [section 1(5) and (6)] are void.

Section 3. Effective dates. (1) Except as provided in subsection (2), [this act] is effective July 1, 2006.

(2) [Section 1(1), (3), (9), and (10) and this section] are effective on passage and approval.

Approved December 16, 2005

CHAPTER NO. 2

[HB 2]

AN ACT REQUIRING THE STATE ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE TO CONSIDER THE ACTUARIAL AND FISCAL SOUNDNESS AND EQUITY OF THE STATE'S PUBLIC EMPLOYEE RETIREMENT SYSTEMS, REVIEW AND REPORT ON CERTAIN LEGISLATION RELATED TO PUBLIC EMPLOYEE RETIREMENT SYSTEMS, ESTABLISH PRINCIPLES OF SOUND FISCAL AND PUBLIC POLICY AS GUIDELINES FOR LEGISLATION AFFECTING PUBLIC

EMPLOYEE RETIREMENT SYSTEMS, GENERALLY MONITOR PUBLIC EMPLOYEE RETIREMENT SYSTEMS AND LEGISLATION AFFECTING THE SYSTEMS, AND INFORM LEGISLATORS ABOUT ISSUES REGARDING PUBLIC EMPLOYEE RETIREMENT SYSTEMS; AUTHORIZING THE COMMITTEE TO REQUEST ASSISTANCE FROM STATE AGENCIES, INCLUDING BOARDS, POLITICAL SUBDIVISIONS, AND THE STATE PUBLIC EMPLOYEE RETIREMENT SYSTEMS; PROVIDING AN APPROPRIATION; AMENDING SECTION 5-5-228, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 5-5-228, MCA, is amended to read:

"5-5-228. State administration and veterans' affairs interim committee. *(1)* The state administration and veterans' affairs interim committee has administrative rule review, draft legislation review, program evaluation, and monitoring functions for the public employee retirement plans and for the following executive branch agencies and the entities attached to the agencies for administrative purposes:

~~(1)~~*(a)* department of administration;

~~(2)~~*(b)* department of military affairs; and

~~(3)~~*(c)* office of the secretary of state.

(2) The committee shall:

(a) consider the actuarial and fiscal soundness of the state's public employee retirement systems, based on reports from the teachers' retirement board, the public employees' retirement board, and the board of investments, and study and evaluate the equity and benefit structure of the state's public employee retirement systems;

(b) establish principles of sound fiscal and public policy as guidelines;

(c) as necessary, develop legislation to keep the retirement systems consistent with sound policy principles;

(d) solicit and review proposed statutory changes to any of the state's public employee retirement systems;

(e) report to the legislature on each legislative proposal reviewed by the committee. The report must include but is not limited to:

(i) a summary of the fiscal implications of the proposal;

(ii) an analysis of the effect that the proposal may have on other public employee retirement systems;

(iii) an analysis of the soundness of the proposal as a matter of public policy;

(iv) any amendments proposed by the committee; and

(v) the committee's recommendation on whether the proposal should be enacted by the legislature.

(f) attach the committee's report to any proposal that the committee considered and that is or has been introduced as a bill during a legislative session; and

(g) publish, for legislators' use, information on the state's public employee retirement systems.

(3) The committee may:

(a) specify the date by which proposals affecting a retirement system must be submitted to the committee for the review contemplated under subsection (2)(d); and

(b) request personnel from state agencies, including boards, political subdivisions, and the state public employee retirement systems, to furnish any information and render any assistance that the committee may request."

Section 2. Appropriation. (1) There is appropriated $5,000 from the state general fund to the legislative services division to be used to pay for the activities of the state administration and veterans' affairs interim committee in executing the provisions of 5-5-228.

(2) The appropriation in subsection (1) is a biennial appropriation for the fiscal biennium ending June 30, 2007.

Section 3. Effective date. [This act] is effective on passage and approval.

Approved December 19, 2005

CHAPTER NO. 3

[HB 5]

AN ACT APPROPRIATING MONEY FOR THE OPERATION OF THE SPECIAL SESSION OF THE 59TH LEGISLATURE CONVENING DECEMBER 14, 2005, AND FOR OTHER RELATED LEGISLATIVE PURPOSES; PROVIDING EXPLICITLY FOR REVERSION OF EXCESS FUNDING; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Appropriations. The following amounts are appropriated from the general fund for the fiscal year ending June 30, 2006, for costs of the special legislative session of December 2005:

LEGISLATIVE BRANCH (1104)

1. Senate (25)	$14,538
2. House of Representatives (26)	33,019
3. Legislative Services Division (22)	17,649

Section 2. Reversion. Money appropriated in [section 1] that is not expended or obligated at the end of the fiscal year ending June 30, 2006, reverts to the general fund.

Section 3. Effective date. [This act] is effective on passage and approval.

Approved December 19, 2005

CHAPTER NO. 4

[SB 1]

AN ACT GENERALLY REVISING THE LAWS GOVERNING SCHOOL FUNDING IN ACCORDANCE WITH THE MONTANA CONSTITUTIONAL REQUIREMENT THAT SCHOOL FUNDING BE BASED ON A DEFINITION OF THE BASIC SYSTEM OF FREE QUALITY PUBLIC ELEMENTARY AND SECONDARY SCHOOLS; PROVIDING FOR A QUALITY EDUCATOR PAYMENT AND A METHOD FOR CALCULATING FUNDING FOR THAT PAYMENT; PROVIDING FOR AN AT-RISK STUDENT PAYMENT AND A METHOD FOR CALCULATING FUNDING FOR THAT PAYMENT; PROVIDING FOR AN INDIAN EDUCATION FOR ALL PAYMENT AND A METHOD FOR CALCULATING FUNDING FOR THAT PAYMENT; PROVIDING FOR AN AMERICAN INDIAN STUDENT ACHIEVEMENT GAP PAYMENT AND A METHOD FOR CALCULATING FUNDING FOR THAT PAYMENT; DEFINING TOTAL QUALITY EDUCATOR PAYMENT, TOTAL AT-RISK STUDENT PAYMENT, TOTAL INDIAN EDUCATION FOR ALL PAYMENT, AND TOTAL AMERICAN INDIAN STUDENT ACHIEVEMENT GAP PAYMENT; RETAINING 3-YEAR AVERAGING FOR ANB; RETAINING INCREASES IN THE

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PER-ANB ENTITLEMENT AND THE BASIC ENTITLEMENT; INCREASING RATES FOR INDIVIDUAL TRANSPORTATION FROM 25 CENTS A MILE TO 35 CENTS A MILE; AMENDING SECTIONS 20-5-323, 20-7-102, 20-9-306, 20-9-311, 20-9-321, 20-9-344, AND 20-10-142, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Quality educator payment. (1) (a) The state shall provide a quality educator payment to:

(i) public school districts, as defined in 20-6-101 and 20-6-701;

(ii) special education cooperatives, as described in 20-7-451;

(iii) the Montana school for the deaf and blind, as described in 20-8-101; and

(iv) state youth correctional facilities, as defined in 41-5-103.

(b) A special education cooperative that has not met the requirements of 20-7-453 and 20-7-454 may not be funded under the provisions of this section except by approval of the superintendent of public instruction.

(2) (a) The quality educator payment for special education cooperatives must be distributed directly to those entities by the superintendent of public instruction.

(b) The quality educator payment for the Montana school for the deaf and blind must be distributed to the Montana school for the deaf and blind.

(c) The quality educator payment for Pine Hills and Riverside youth correctional facilities must be distributed to those facilities by the department of corrections.

(3) The quality educator payment is $2,000 times the number of full-time equivalent educators, as reported to the superintendent of public instruction for accreditation purposes in the previous school year, each of whom:

(a) holds a valid certificate under the provisions of 20-4-106 and is employed by an entity listed in subsection (1) in a position that requires an educator license in accordance with the administrative rules adopted by the board of public education; or

(b) (i) is a licensed professional under 37-8-405, 37-8-415, 37-11-301, 37-15-301, 37-23-201, 37-24-301, or 37-25-302; and

(ii) is employed by an entity listed in subsection (1) to provide services to students.

Section 2. At-risk student payment. (1) The state shall provide an at-risk student payment to public school districts, as defined in 20-6-101 and 20-6-701, for at-risk students, as defined in 20-1-101 and referred to in 20-9-309.

(2) The at-risk student payment must be distributed to public school districts by the office of public instruction in the same manner that the office of public instruction allocates the funds received under 20 U.S.C. 6332, et seq. The office of public instruction shall prorate payments to districts based upon the available appropriation.

(3) On or before September 15, 2010, the office of public instruction shall report to the governor and the legislature on the change in status of standardized test scores, graduation rates, and drop-out rates of at-risk students using fiscal year 2006 data as a baseline.

Section 3. Indian education for all payment. (1) The state shall provide an Indian education for all payment to public school districts, as defined in 20-6-101 and 20-6-701, to implement the provisions of Article X, section 1(2), of the Montana constitution and Title 20, chapter 1, part 5.

(2) The Indian education for all payment is the greater of $100 for each district or $20.40 for each ANB, calculated as provided in 20-9-311, for each fiscal year.

(3) The district shall deposit the payment in the general fund of the district.

Section 4. American Indian achievement gap payment. (1) The state shall provide an American Indian achievement gap payment to public school districts, as defined in 20-6-101 and 20-6-701, for the purpose of closing the educational achievement gap that exists between American Indian students and non-Indian students.

(2) (a) The American Indian achievement gap payment is $200 for each American Indian student enrolled in the district based on the count of regularly enrolled students on the first Monday in October of the prior school year as reported to the office of public instruction.

(b) A school district may not require a student to disclose the student's race.

(3) The district shall deposit the payment in the general fund of the district.

(4) On or before September 15, 2010, the office of public instruction shall report to the governor and the legislature on the change in status of standardized test scores, graduation rates, and drop-out rates of American Indian students using fiscal year 2006 data as a baseline.

Section 5. Section 20-5-323, MCA, is amended to read:

"20-5-323. Tuition and transportation rates. (1) Except as provided in subsections (2) through (5), whenever a child has approval to attend a school outside of the child's district of residence under the provisions of 20-5-320 or 20-5-321, the rate of tuition charged for a Montana resident student may not exceed 20% of the per-ANB maximum rate established in 20-9-306 for the year of attendance.

(2) The tuition for a child with a disability must be determined under rules adopted by the superintendent of public instruction for the calculation of tuition for special education pupils.

(3) The tuition rate for out-of-district placement pursuant to 20-5-321(1)(d) and (1)(e) for a student without disabilities who requires a program with costs that exceed the average district costs must be determined as the actual individual costs of providing that program according to the following:

(a) the district of attendance and the district, person, or entity responsible for the tuition payments shall approve an agreement with the district of attendance for the tuition cost;

(b) for a Montana resident student, 80% of the maximum per-ANB rate established in 20-9-306, received in the year for which the tuition charges are calculated, must be subtracted from the per-student program costs for a Montana resident student; and

(c) the maximum tuition rate paid to a district under this section may not exceed $2,500 per ANB.

(4) When a child attends a public school of another state or province, the amount of daily tuition may not be greater than the average annual cost for each student in the child's district of residence. This calculation for tuition purposes is determined by totaling all of the expenditures for all of the district budgeted funds for the preceding school fiscal year and dividing that amount by the October 1 enrollment in the preceding school fiscal year. For the purposes of this subsection, the following do not apply:

(a) placement of a child with a disability pursuant to Title 20, chapter 7, part 4;

(b) placement made in a state or province with a reciprocal tuition agreement pursuant to 20-5-314;

(c) an order issued under Title 40, chapter 4, part 2; or

(d) out-of-state placement by a state agency.

(5) When a child is placed by a state agency in an out-of-state residential facility, the state agency making the placement is responsible for the education costs resulting from the placement.

(6) The amount, if any, charged for transportation may not exceed the lesser of the average transportation cost for each student in the child's district of residence or ~~25~~ *35* cents a mile. The average expenditures for the district transportation fund for the preceding school fiscal year must be calculated by dividing the transportation fund expenditures by the October 1 enrollment for the preceding fiscal year."

Section 6. Section 20-7-102, MCA, is amended to read:

"20-7-102. (Temporary) Accreditation of schools. (1) The conditions under which each elementary school, each middle school, each junior high school, 7th and 8th grades funded at high school rates, and each high school operates must be reviewed by the superintendent of public instruction to determine compliance with the standards of accreditation. The accreditation status of ~~every~~ *each* school must then be established by the board of public education upon the recommendation of the superintendent of public instruction. Notification of the accreditation status for the applicable school year or years must be given to each district by the superintendent of public instruction.

(2) A school may be accredited for a period consisting of 1, 2, 3, 4, or 5 school years, except that multiyear accreditation may be granted only to schools that are in compliance with 20-4-101.

(3) A nonpublic school may, through its governing body, request that the board of public education accredit the school. Nonpublic schools may be accredited in the same manner as provided in subsection (1).

(4) As used in this section, "7th and 8th grades funded at high school rates" means an elementary school district or K-12 district elementary program whose 7th and 8th grades are funded as provided in ~~20-9-306(11)(c)(ii)~~ *20-9-306(14)(c)(ii)*. (Terminates June 30, 2007—sec. 25(2), Ch. 462, L. 2005.)

20-7-102. (Effective July 1, 2007) Accreditation of schools. (1) The conditions under which each elementary school, each middle school, each junior high school, 7th and 8th grades funded at high school rates, and each high school operates must be reviewed by the superintendent of public instruction to determine compliance with the standards of accreditation. The accreditation status of ~~every~~ *each* school must then be established by the board of public education upon the recommendation of the superintendent of public instruction. Notification of the accreditation status for the applicable school year or years must be given to each district by the superintendent of public instruction.

(2) A school may be accredited for a period consisting of 1, 2, 3, 4, or 5 school years, except that multiyear accreditation may be granted only to schools that are in compliance with 20-4-101.

(3) A nonpublic school may, through its governing body, request that the board of public education accredit the school. Nonpublic schools may be accredited in the same manner as provided in subsection (1).

(4) As used in this section, "7th and 8th grades funded at high school rates" means an elementary school district or K-12 district elementary program whose 7th and 8th grades are funded as provided in ~~20-9-306(10)(c)(ii)~~ *20-9-306(14)(c)(ii)*."

Section 7. Section 20-9-306, MCA, is amended to read:

"20-9-306. (Temporary) Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "BASE" means base amount for school equity.

(2) "BASE aid" means:

(a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district; and

(b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the special education allowable cost payment.

(3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of the basic entitlement, 80% of the total per-ANB entitlement, and 140% of the special education allowable cost payment.

(4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through 20-9-369.

(5) "BASE funding program" means the state program for the equitable distribution of the state's share of the cost of Montana's basic system of public elementary schools and high schools, through county equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

(6) "Basic entitlement" means:

(a) $225,273 for each high school district;

(b) $20,275 for each elementary school district or K-12 district elementary program without an approved and accredited junior high school or middle school; and

(c) the prorated entitlement for each elementary school district or K-12 district elementary program with an approved and accredited junior high school or middle school, calculated as follows using either the current year ANB or the 3-year ANB provided for in 20-9-311:

(i) $20,275 times the ratio of the ANB for kindergarten through grade 6 to the total ANB of kindergarten through grade 8; plus

(ii) $225,273 times the ratio of the ANB for grades 7 and 8 to the total ANB of kindergarten through grade 8.

(7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to 20-9-311.

(8) "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district and funded with state and county equalization aid.

(9) "Maximum general fund budget" means a district's general fund budget amount calculated from the basic entitlement for the district, the total per-ANB entitlement for the district, and the greater of:

(a) 175% of special education allowable cost payments; or

(b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a maximum allowable ratio of 200%.

(10) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted that is above the BASE budget and below the maximum general fund budget for a district.

(11) "Total per-ANB entitlement" means the district entitlement resulting from the following calculations and using either the current year ANB or the 3-year ANB provided for in 20-9-311:

(a) for a high school district or a K-12 district high school program, a maximum rate of $5,584 for the first ANB is decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;

(b) for an elementary school district or a K-12 district elementary program without an approved and accredited junior high school or middle school, a maximum rate of $4,366 for the first ANB is decreased at the rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(c) for an elementary school district or a K-12 district elementary program with an approved and accredited junior high school or middle school, the sum of:

(i) a maximum rate of $4,366 for the first ANB for kindergarten through grade 6 is decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(ii) a maximum rate of $5,584 for the first ANB for grades 7 and 8 is decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB. (Terminates June 30, 2006—sec. 25(1), Ch. 462, L. 2005.)

20-9-306. (Temporary—effective July 1, 2006) Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "BASE" means base amount for school equity.

(2) "BASE aid" means:

(a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district; ~~and~~

(b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the special education allowable cost payment;

(c) the total quality educator payment;

(d) the total at-risk student payment;

(e) the total Indian education for all payment; and

(f) the total American Indian achievement gap payment.

(3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of the basic entitlement, 80% of the total per-ANB entitlement, *100% of the total quality educator payment, 100% of the total at-risk student payment, 100% of the total Indian education for all payment, 100% of the total American Indian achievement gap payment,* and 140% of the special education allowable cost payment.

(4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through 20-9-369.

(5) "BASE funding program" means the state program for the equitable distribution of the state's share of the cost of Montana's basic system of public elementary schools and high schools, through county equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

(6) "Basic entitlement" means:

(a) $230,199 for each high school district;

(b) $20,718 for each elementary school district or K-12 district elementary program without an approved and accredited junior high school or middle school; and

(c) the prorated entitlement for each elementary school district or K-12 district elementary program with an approved and accredited junior high school or middle school, calculated as follows using either the current year ANB or the 3-year ANB provided for in 20-9-311:

(i) $20,718 times the ratio of the ANB for kindergarten through grade 6 to the total ANB of kindergarten through grade 8; plus

(ii) $230,199 times the ratio of the ANB for grades 7 and 8 to the total ANB of kindergarten through grade 8.

(7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to 20-9-311.

(8) "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district and funded with state and county equalization aid.

(9) "Maximum general fund budget" means a district's general fund budget amount calculated from the basic entitlement for the district, the total per-ANB entitlement for the district, *the total quality educator payment, the total at-risk student payment, the total Indian education for all payment, the total American Indian achievement gap payment,* and the greater of:

(a) 175% of special education allowable cost payments; or

(b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a maximum allowable ratio of 200%.

(10) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted that is above the BASE budget and below the maximum general fund budget for a district.

(11) "Total American Indian achievement gap payment" means the payment resulting from multiplying $200 times the number of American Indian students enrolled in the district as provided in [section 4].

(12) "Total at-risk student payment" means the payment resulting from the distribution of any funds appropriated for the purposes of [section 2].

(13) "Total Indian education for all payment" means the payment resulting from multiplying $20.40 times the ANB of the district or $100 for each district, whichever is greater, as provided for in [section 3].

~~(11)~~*(14)* "Total per-ANB entitlement" means the district entitlement resulting from the following calculations and using either the current year ANB or the 3-year ANB provided for in 20-9-311:

(a) for a high school district or a K-12 district high school program, a maximum rate of $5,704 for the first ANB is decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;

(b) for an elementary school district or a K-12 district elementary program without an approved and accredited junior high school or middle school, a maximum rate of $4,456 for the first ANB is decreased at the rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(c) for an elementary school district or a K-12 district elementary program with an approved and accredited junior high school or middle school, the sum of:

(i) a maximum rate of $4,456 for the first ANB for kindergarten through grade 6 is decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with

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each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(ii) a maximum rate of $5,704 for the first ANB for grades 7 and 8 is decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB.

(15) "Total quality educator payment" means the payment resulting from multiplying $2,000 times the number of full-time equivalent educators as provided in [section 1]. (Terminates June 30, 2007—sec. 25(2), Ch. 462, L. 2005.)

20-9-306. (Effective July 1, 2007) Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "BASE" means base amount for school equity.

(2) "BASE aid" means:

(a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district; ~~and~~

(b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the special education allowable cost payment;

(c) the total quality educator payment;

(d) the total at-risk student payment;

(e) the total Indian education for all payment; and

(f) the total American Indian achievement gap payment.

(3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of the basic entitlement, 80% of the total per-ANB entitlement, *100% of the total quality educator payment, 100% of the total at-risk student payment, 100% of the total Indian education for all payment, 100% of the total American Indian achievement gap payment,* and ~~up to~~ 140% of the special education allowable cost payment.

(4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through 20-9-369.

(5) "BASE funding program" means the state program for the equitable distribution of the state's share of the cost of Montana's basic system of public elementary schools and high schools, through county equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

(6) "Basic entitlement" means:

(a) ~~$220,646~~ *$230,199* for each high school district;

(b) ~~$19,859~~ *$20,718* for each elementary school district or K-12 district elementary program without an approved and accredited junior high school or middle school; and

(c) the prorated entitlement for each elementary school district or K-12 district elementary program with an approved and accredited junior high school or middle school, calculated as follows *using either the current year ANB or the 3-year ANB provided for in 20-9-311*:

(i) ~~$19,859~~ *$20,718* times the ratio of the ANB for kindergarten through grade 6 to the total ANB of kindergarten through grade 8; plus

(ii) ~~$220,646~~ *$230,199* times the ratio of the ANB for grades 7 and 8 to the total ANB of kindergarten through grade 8.

(7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to 20-9-311.

~~(7)~~*(8)* "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district and funded with state and county equalization aid.

~~(8)~~*(9)* "Maximum general fund budget" means a district's general fund budget amount calculated from the basic entitlement for the district, the total per-ANB entitlement for the district, *the total quality educator payment, the total at-risk student payment, the total Indian education for all payment, the total American Indian achievement gap payment,* and the greater of:

(a) 175% of special education allowable cost payments; or

(b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a maximum allowable ratio of 200%.

~~(9)~~*(10)* "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted that is above the BASE budget and below the maximum general fund budget for a district.

(11) "Total American Indian achievement gap payment" means the payment resulting from multiplying $200 times the number of American Indian students enrolled in the district as provided in [section 4].

(12) "Total at-risk student payment" means the payment resulting from the distribution of any funds appropriated for the purposes of [section 2].

(13) "Total Indian education for all payment" means the payment resulting from multiplying $20.40 times the ANB of the district or $100 for each district, whichever is greater, as provided for in [section 3].

~~(10)~~*(14)* "Total per-ANB entitlement" means the district entitlement resulting from the following calculations *and using either the current year ANB or the 3-year ANB provided for in 20-9-311*:

(a) for a high school district or a K-12 district high school program, a maximum rate of ~~$5,371~~ *$5,704* for the first ANB is decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;

(b) for an elementary school district or a K-12 district elementary program without an approved and accredited junior high school or middle school, a maximum rate of ~~$4,031~~ *$4,456* for the first ANB is decreased at the rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(c) for an elementary school district or a K-12 district elementary program with an approved and accredited junior high school or middle school, the sum of:

(i) a maximum rate of ~~$4,031~~ *$4,456* for the first ANB for kindergarten through grade 6 is decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(ii) a maximum rate of ~~$5,371~~ *$5,704* for the first ANB for grades 7 and 8 is decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB.

(15) "Total quality educator payment" means the payment resulting from multiplying $2,000 times the number of full-time equivalent educators as provided in [section 1]."

Section 8. Section 20-9-311, MCA, is amended to read:

"20-9-311. (Temporary) Calculation of average number belonging (ANB) — 3-year averaging. (1) Average number belonging (ANB) must be computed for each budget unit as follows:

(a) compute an average enrollment by adding a count of regularly enrolled full-time pupils who were enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils on February 1 of the prior school fiscal year, or the next school day if those dates do not fall on a school day, and divide the sum by two; and

(b) multiply the average enrollment calculated in subsection (1)(a) by the sum of 180 and the approved pupil-instruction-related days for the current school fiscal year and divide by 180.

(2) For the purpose of calculating ANB under subsection (1), up to 7 approved pupil-instruction-related days may be included in the calculation.

(3) When a school district has approval to operate less than the minimum aggregate hours under 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

(4) (a) Except as provided in subsection (5), for the purpose of calculating ANB, enrollment in an education program:

(i) from 181 to 359 aggregate hours of pupil instruction per school year is counted as one-quarter-time enrollment;

(ii) from 360 to 539 aggregate hours of pupil instruction per school year is counted as half-time enrollment;

(iii) from 540 to 719 aggregate hours of pupil instruction per school year is counted as three-quarter-time enrollment; and

(iv) 720 or more aggregate hours of pupil instruction per school year is counted as full-time enrollment.

(b) Enrollment in a program intended to provide fewer than 180 aggregate hours of pupil instruction per school year may not be included for purposes of ANB.

(c) Enrollment in a self-paced program or course may be converted to an hourly equivalent based on the hours necessary and appropriate to provide the course within a regular classroom schedule.

(d) A pupil in grades 1 through 12 who is concurrently enrolled in more than one public school, program, or district may not be counted as more than one full-time pupil for ANB purposes.

(5) In calculating the ANB for pupils enrolled in a program established under 20-7-117(1), enrollment in a program that provides 360 or more aggregate hours of pupil instruction per school year must be counted as one-half pupil for ANB purposes.

(6) When a pupil has been absent, with or without excuse, for more than 10 consecutive school days, the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil resumes attendance prior to the day of the enrollment count.

(7) The enrollment of prekindergarten pupils, as provided in 20-7-117, may not be included in the ANB calculations.

(8) The average number belonging of the regularly enrolled, full-time pupils for the public schools of a district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the schools of the district, except that the ANB is calculated as a separate budget unit when:

(a) (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or town located in the district and at least 20 miles from any other school of the district, the number of regularly enrolled, full-time pupils of the school must be calculated as a separate budget unit for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

(ii) a school of the district is located more than 20 miles from any other school of the district and incorporated territory is not involved in the district, the number of regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

(iii) the superintendent of public instruction approves an application not to aggregate when conditions exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel, or when any other condition exists that would result in an unusual hardship to the pupils of the school if they were transported to another school, the number of regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district; or

(iv) two or more districts consolidate or annex under the provisions of 20-6-422 or 20-6-423, the ANB and the basic entitlements of the component districts must be calculated separately for a period of 3 years following the consolidation or annexation. Each district shall retain a percentage of its basic entitlement for 3 additional years as follows:

(A) 75% of the basic entitlement for the fourth year;

(B) 50% of the basic entitlement for the fifth year; and

(C) 25% of the basic entitlement for the sixth year.

(b) a junior high school has been approved and accredited as a junior high school, all of the regularly enrolled, full-time pupils of the junior high school must be considered as high school district pupils for ANB purposes;

(c) a middle school has been approved and accredited, all pupils below the 7th grade must be considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered high school pupils for ANB purposes; or

(d) a school has not been accredited by the board of public education, the regularly enrolled, full-time pupils attending the nonaccredited school are not eligible for average number belonging calculation purposes, nor will an average number belonging for the nonaccredited school be used in determining the BASE funding program for the district.

(9) The district shall provide the superintendent of public instruction with semiannual reports of school attendance, absence, and enrollment for regularly enrolled students, using a format determined by the superintendent.

(10) (a) Except as provided in subsections (10)(b) and (10)(c), enrollment in a basic education program provided by the district through any combination of onsite or offsite instruction may be included for ANB purposes only if the pupil is offered access to the complete range of educational services for the basic education program required by the accreditation standards adopted by the board of public education.

(b) Access to school programs and services for a student placed by the trustees in a private program for special education may be limited to the programs and services specified in an approved individual education plan supervised by the district.

(c) Access to school programs and services for a student who is incarcerated in a facility, other than a youth detention center, may be limited to the programs and services provided by the district at district expense under an agreement with the incarcerating facility.

(d) This subsection (10) may not be construed to require a school district to offer access to activities governed by an organization having jurisdiction over interscholastic activities, contests, and tournaments to a pupil who is not otherwise eligible under the rules of the organization.

(11) A district may include only, for ANB purposes, an enrolled pupil who is otherwise eligible under this title and who is:

(a) a resident of the district or a nonresident student admitted by trustees under a student attendance agreement and who is attending a school of the district;

(b) unable to attend school due to a medical reason certified by a medical doctor and receiving individualized educational services supervised by the district, at district expense, at a home or facility that does not offer an educational program;

(c) unable to attend school due to the student's incarceration in a facility, other than a youth detention center, and who is receiving individualized educational services supervised by the district, at district expense, at a home or facility that does not offer an educational program;

(d) receiving special education and related services, other than day treatment, under a placement by the trustees at a private nonsectarian school or private program if the pupil's services are provided at the district's expense under an approved individual education plan supervised by the district;

(e) participating in the running start program at district expense under 20-9-706;

(f) receiving educational services, provided by the district, using appropriately licensed district staff at a private residential program or private residential facility licensed by the department of public health and human services;

(g) enrolled in an educational program or course provided at district expense using electronic or offsite delivery methods, including but not limited to tutoring, distance learning programs, online programs, and technology delivered learning programs, while attending a school of the district or any other nonsectarian offsite instructional setting with the approval of the trustees of the district. The pupil shall:

(i) meet the residency requirements for that district as provided in 1-1-215;

(ii) live in the district and must be eligible for educational services under the Individuals With Disabilities Education Act or under 29 U.S.C. 794; or

(iii) attend school in the district under a mandatory attendance agreement as provided in 20-5-321.

(h) a resident of the district attending a Montana job corps program under an interlocal agreement with the district under 20-9-707.

(12) (a) For an elementary or high school district that has been in existence for 3 ~~or more~~ years *or more*, the district's maximum general fund budget and BASE budget for the ensuing *school fiscal* year must be calculated using the current year ANB for all budget units or the 3-year average ANB for all budget units, whichever generates the greatest maximum general fund budget.

(b) For a K-12 district that has been in existence for 3 years or more, the district's maximum general fund budget and BASE budget for the ensuing *school fiscal* year must be calculated separately for the elementary and high school programs pursuant to subsection (12)(a) and then combined.

(13) The term "3-year ANB" means an average ANB over the most recent 3-year period, calculated by:

(a) adding the ANB for the budget unit for the ensuing school fiscal year to the ANB for each of the previous 2 school fiscal years; and

(b) dividing the sum calculated under subsection (13)(a) by three. (Terminates June 30, 2007—sec. 25(2), Ch. 462, L. 2005.)

20-9-311. (Effective July 1, 2007) Calculation of average number belonging (ANB). (1) Average number belonging (ANB) must be computed as follows:

(a) compute an average enrollment by adding a count of regularly enrolled full-time pupils who were enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils on February 1 of the prior school fiscal year, or the next school day if those dates do not fall on a school day, and divide the sum by two; and

(b) multiply the average enrollment calculated in subsection (1)(a) by the sum of 180 and the approved pupil-instruction-related days for the current school fiscal year and divide by 180.

(2) For the purpose of calculating ANB under subsection (1), up to 7 approved pupil-instruction-related days may be included in the calculation.

(3) When a school district has approval to operate less than the minimum aggregate hours under 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

(4) (a) Except as provided in subsection (5), for the purpose of calculating ANB, enrollment in an education program:

(i) from 181 to 359 aggregate hours of pupil instruction per school year is counted as one-quarter-time enrollment;

(ii) from 360 to 539 aggregate hours of pupil instruction per school year is counted as half-time enrollment;

(iii) from 540 to 719 aggregate hours of pupil instruction per school year is counted as three-quarter-time enrollment; and

(iv) 720 or more aggregate hours of pupil instruction per school year is counted as full-time enrollment.

(b) Enrollment in a program intended to provide fewer than 180 aggregate hours of pupil instruction per school year may not be included for purposes of ANB.

(c) Enrollment in a self-paced program or course may be converted to an hourly equivalent based on the hours necessary and appropriate to provide the course within a regular classroom schedule.

(d) A pupil in grades 1 through 12 who is concurrently enrolled in more than one public school, program, or district may not be counted as more than one full-time pupil for ANB purposes.

(5) In calculating the ANB for pupils enrolled in a program established under 20-7-117(1), enrollment in a program that provides 360 or more aggregate hours of pupil instruction per school year must be counted as one-half pupil for ANB purposes.

(6) When a pupil has been absent, with or without excuse, for more than 10 consecutive school days, the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil resumes attendance prior to the day of the enrollment count.

(7) The enrollment of prekindergarten pupils, as provided in 20-7-117, may not be included in the ANB calculations.

(8) The average number belonging of the regularly enrolled, full-time pupils for the public schools of a district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the schools of the district, except that when:

(a) (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or town located in the district and at least 20 miles from any other school of the district,

the number of regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

(ii) a school of the district is located more than 20 miles from any other school of the district and incorporated territory is not involved in the district, the number of regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

(iii) the superintendent of public instruction approves an application not to aggregate when conditions exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel, or when any other condition exists that would result in an unusual hardship to the pupils of the school if they were transported to another school, the number of regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district; or

(iv) two or more districts consolidate or annex under the provisions of 20-6-422 or 20-6-423, the ANB and the basic entitlements of the component districts must be calculated separately for a period of 3 years following the consolidation or annexation. Each district shall retain a percentage of its basic entitlement for 3 additional years as follows:

(A) 75% of the basic entitlement for the fourth year;

(B) 50% of the basic entitlement for the fifth year; and

(C) 25% of the basic entitlement for the sixth year.

(b) a junior high school has been approved and accredited as a junior high school, all of the regularly enrolled, full-time pupils of the junior high school must be considered as high school district pupils for ANB purposes;

(c) a middle school has been approved and accredited, all pupils below the 7th grade must be considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered high school pupils for ANB purposes; or

(d) a school has not been accredited by the board of public education, the regularly enrolled, full-time pupils attending the nonaccredited school are not eligible for average number belonging calculation purposes, nor will an average number belonging for the nonaccredited school be used in determining the BASE funding program for the district.

(9) The district shall provide the superintendent of public instruction with semiannual reports of school attendance, absence, and enrollment for regularly enrolled students, using a format determined by the superintendent.

(10) (a) Except as provided in subsections (10)(b) and (10)(c), enrollment in a basic education program provided by the district through any combination of onsite or offsite instruction may be included for ANB purposes only if the pupil is offered access to the complete range of educational services for the basic education program required by the accreditation standards adopted by the board of public education.

(b) Access to school programs and services for a student placed by the trustees in a private program for special education may be limited to the programs and services specified in an approved individual education plan supervised by the district.

(c) Access to school programs and services for a student who is incarcerated in a facility, other than a youth detention center, may be limited to the programs and services provided by the district at district expense under an agreement with the incarcerating facility.

(d) This subsection (10) may not be construed to require a school district to offer access to activities governed by an organization having jurisdiction over interscholastic activities, con-

tests, and tournaments to a pupil who is not otherwise eligible under the rules of the organization.

(11) A district may include only, for ANB purposes, an enrolled pupil who is otherwise eligible under this title and who is:

(a) a resident of the district or a nonresident student admitted by trustees under a student attendance agreement and who is attending a school of the district;

(b) unable to attend school due to a medical reason certified by a medical doctor and receiving individualized educational services supervised by the district, at district expense, at a home or facility that does not offer an educational program;

(c) unable to attend school due to the student's incarceration in a facility, other than a youth detention center, and who is receiving individualized educational services supervised by the district, at district expense, at a home or facility that does not offer an educational program;

(d) receiving special education and related services, other than day treatment, under a placement by the trustees at a private nonsectarian school or private program if the pupil's services are provided at the district's expense under an approved individual education plan supervised by the district;

(e) participating in the running start program at district expense under 20-9-706;

(f) receiving educational services, provided by the district, using appropriately licensed district staff at a private residential program or private residential facility licensed by the department of public health and human services;

(g) enrolled in an educational program or course provided at district expense using electronic or offsite delivery methods, including but not limited to tutoring, distance learning programs, online programs, and technology delivered learning programs, while attending a school of the district or any other nonsectarian offsite instructional setting with the approval of the trustees of the district. The pupil shall:

(i) meet the residency requirements for that district as provided in 1-1-215;

(ii) live in the district and must be eligible for educational services under the Individuals With Disabilities Education Act or under 29 U.S.C. 794; or

(iii) attend school in the district under a mandatory attendance agreement as provided in 20-5-321.

(h) a resident of the district attending a Montana job corps program under an interlocal agreement with the district under 20-9-707.

(12) (a) For an elementary or high school district that has been in existence for 3 years or more, the district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated using the current year ANB for all budget units or the 3-year average ANB for all budget units, whichever generates the greatest maximum general fund budget.

(b) For a K-12 district that has been in existence for 3 years or more, the district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated separately for the elementary and high school programs pursuant to subsection (12)(a) and then combined.

(13) The term "3-year ANB" means an average ANB over the most recent 3-year period, calculated by:

(a) adding the ANB for the budget unit for the ensuing school fiscal year to the ANB for each of the previous 2 school fiscal years; and

(b) dividing the sum calculated under subsection (13)(a) by three."

Section 9. Section 20-9-321, MCA, is amended to read:

"20-9-321. (Temporary) Allowable cost payment for special education. (1) As used in this section, "ANB" means the current year ANB.

(2) The 3-year average ANB provided for in 20-9-311~~(12)~~ does not apply to the calculation and distribution of state special education allowable cost payments provided for in this section.

(3) For the purpose of establishing the allowable cost payment for a current year special education program for a school district, the superintendent of public instruction shall determine the total special education payment to a school district, cooperative, or joint board for special education services formed under 20-3-361 prior to July 1, 1992, using the following factors:

(a) the district ANB student count as established pursuant to 20-9-311 and 20-9-313;

(b) a per-ANB amount for the special education instructional block grant;

(c) a per-ANB amount for the special education-related services block grant;

(d) an amount for cooperatives or joint boards meeting the requirements of 20-7-457, to compensate for the additional costs of operations and maintenance, travel, supportive services, recruitment, and administration; and

(e) any other data required by the superintendent of public instruction to administer the provisions of this section.

(4) (a) The total special education allocation must be distributed according to the following formula:

(i) 52.5% through instructional block grants;

(ii) 17.5% through related services block grants;

(iii) 25% to reimbursement of local districts; and

(iv) 5% to special education cooperatives and joint boards for administration and travel.

(b) Special education allowable cost payments outlined in subsection (4)(a) must be granted to each school district and cooperative with a special education program as follows:

(i) The instructional block grant limit prescribed in subsection (4)(a)(i) must be awarded to each school district, based on the district ANB and the per-ANB special education instructional amount.

(ii) The special education-related services block grant limit prescribed in subsection (4)(a)(ii) must be awarded to each school district that is not a cooperative member, based on the district ANB and the per-ANB special education-related services amount, or to a cooperative or joint board that meets the requirements of 20-7-457. The special education-related services block grant amount for districts that are members of approved cooperatives or a joint board must be awarded to the cooperatives or joint board.

(iii) If a district's allowable costs of special education exceed the total of the special education instructional and special education-related services block grant plus the required district match required by subsection (6), the district is eligible to receive at least a 40% reimbursement of the additional costs. To ensure that the total of reimbursements to all districts does not exceed 25% of the total special education allocation limit established in subsection (4)(a)(iii), reimbursement must be made to districts for amounts that exceed a threshold level calculated annually by the office of public instruction. The threshold level is calculated as a percentage amount above the sum of the district's block grants plus the required district match.

(iv) Of the amount distributed under subsection (4)(a)(iv), three-fifths must be distributed based on the ANB count of the school districts that are members of the special education coop-

erative or joint board and two-fifths must be distributed based on distances, population density, and the number of itinerant personnel under rules adopted by the superintendent of public instruction.

(5) The superintendent of public instruction shall adopt rules necessary to implement this section.

(6) A district shall provide a 25% local contribution for special education, matching every $3 of state special education instructional and special education-related services block grants with at least one local dollar. A district that is a cooperative member is required to provide the 25% match of the special education-related services grant amount to the special education cooperative.

(7) The superintendent of public instruction shall determine the actual district match based on the trustees' reports. Any unmatched portion reverts to the state and must be subtracted from the district's ensuing year's special education allowable cost payment.

(8) A district that demonstrates severe economic hardship because of exceptional special education costs may apply to the superintendent of public instruction for an advance on the reimbursement for the year in which the actual costs will be incurred. (Terminates June 30, 2007—sec. 25(2), Ch. 462, L. 2005.)

20-9-321. (Effective July 1, 2007) Allowable cost payment for special education. *(1) As used in this section, "ANB" means the current year ANB.*

(2) The 3-year average ANB provided for in 20-9-311 does not apply to the calculation and distribution of state special education allowable cost payments provided for in this section.

~~(1)~~*(3)* For the purpose of establishing the allowable cost payment for a current year special education program for a school district, the superintendent of public instruction shall determine the total special education payment to a school district, cooperative, or joint board for special education services formed under 20-3-361 prior to July 1, 1992, using the following factors:

(a) the district ANB student count as established pursuant to 20-9-311 and 20-9-313;

(b) a per-ANB amount for the special education instructional block grant;

(c) a per-ANB amount for the special education-related services block grant;

(d) an amount for cooperatives or joint boards meeting the requirements of 20-7-457, to compensate for the additional costs of operations and maintenance, travel, supportive services, recruitment, and administration; and

(e) any other data required by the superintendent of public instruction to administer the provisions of this section.

~~(2)~~*(4)* (a) The total special education allocation must be distributed according to the following formula:

(i) 52.5% through instructional block grants;

(ii) 17.5% through related services block grants;

(iii) 25% to reimbursement of local districts; and

(iv) 5% to special education cooperatives and joint boards for administration and travel.

(b) Special education allowable cost payments outlined in subsection ~~(2)(a)~~ *(4)(a)* must be granted to each school district and cooperative with a special education program as follows:

(i) The instructional block grant limit prescribed in subsection ~~(2)(a)(i)~~ *(4)(a)(i)* must be awarded to each school district, based on the district ANB and the per-ANB special education instructional amount.

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(ii) The special education-related services block grant limit prescribed in subsection ~~(2)(a)(ii)~~ *(4)(a)(ii)* must be awarded to each school district that is not a cooperative member, based on the district ANB and the per-ANB special education-related services amount, or to a cooperative or joint board that meets the requirements of 20-7-457. The special education-related services block grant amount for districts that are members of approved cooperatives or a joint board must be awarded to the cooperatives or joint board.

(iii) If a district's allowable costs of special education exceed the total of the special education instructional and special education-related services block grant plus the required district match required by subsection ~~(4)~~ *(6)*, the district is eligible to receive at least a 40% reimbursement of the additional costs. To ensure that the total of reimbursements to all districts does not exceed 25% of the total special education allocation limit established in subsection ~~(2)(a)(iii)~~ *(4)(a)(iii)*, reimbursement must be made to districts for amounts that exceed a threshold level calculated annually by the office of public instruction. The threshold level is calculated as a percentage amount above the sum of the district's block grants plus the required district match.

(iv) Of the amount distributed under subsection ~~(2)(a)(iv)~~ *(4)(a)(iv)*, three-fifths must be distributed based on the ANB count of the school districts that are members of the special education cooperative or joint board and two-fifths must be distributed based on distances, population density, and the number of itinerant personnel under rules adopted by the superintendent of public instruction.

~~(3)~~*(5)* The superintendent of public instruction shall adopt rules necessary to implement this section.

~~(4)~~*(6)* A district shall provide a 25% local contribution for special education, matching every $3 of state special education instructional and special education-related services block grants with at least one local dollar. A district that is a cooperative member is required to provide the 25% match of the special education-related services grant amount to the special education cooperative.

~~(5)~~*(7)* The superintendent of public instruction shall determine the actual district match based on the trustees' reports. Any unmatched portion reverts to the state and must be subtracted from the district's ensuing year's special education allowable cost payment.

~~(6)~~*(8)* A district that demonstrates severe economic hardship because of exceptional special education costs may apply to the superintendent of public instruction for an advance on the reimbursement for the year in which the actual costs will be incurred."

Section 10. Section 20-9-344, MCA, is amended to read:

"20-9-344. Duties of board of public education for distribution of BASE aid. (1) The board of public education shall administer and distribute the BASE aid and state advances for county equalization in the manner and with the powers and duties provided by law. The board of public education:

(a) shall adopt policies for regulating the distribution of BASE aid and state advances for county equalization in accordance with the provisions of law;

(b) may require reports from the county superintendents, county treasurers, and trustees ~~as~~ *that* it considers necessary; and

(c) shall order the superintendent of public instruction to distribute the BASE aid on the basis of each district's annual entitlement to the aid as established by the superintendent of public instruction. In ordering the distribution of BASE aid, the board of public education may not increase or decrease the BASE aid distribution to any district on account of any difference that may occur during the school fiscal year between budgeted and actual receipts from any other source of school revenue.

(2) The board of public education may order the superintendent of public instruction to withhold distribution of BASE aid from a district when the district fails to:

(a) submit reports or budgets as required by law or rules adopted by the board of public education; or

(b) maintain accredited status.

(3) Prior to any proposed order by the board of public education to withhold distribution of BASE aid or county equalization money, the district is entitled to a contested case hearing before the board of public education, as provided under the Montana Administrative Procedure Act.

(4) If a district or county receives more BASE aid than it is entitled to, the county treasurer shall return the overpayment to the state upon the request of the superintendent of public instruction in the manner prescribed by the superintendent of public instruction.

(5) Except as provided in 20-9-347(2), the BASE aid payment must be distributed according to the following schedule:

(a) from August to October of the school fiscal year, *to each district* 10% of*:*

(i) ~~the~~ direct state aid ~~to each district~~*;*

(ii) the total quality educator payment;

(iii) the total at-risk student payment;

(iv) the total Indian education for all payment; and

(v) the total American Indian achievement gap payment;

(b) from December to April of the school fiscal year, *to each district* 10% of*:*

(i) ~~the~~ direct state aid ~~to each district~~*;*

(ii) the total quality educator payment;

(iii) the total at-risk student payment;

(iv) the total Indian education for all payment; and

(v) the total American Indian achievement gap payment;

(c) in November of the school fiscal year, one-half of the guaranteed tax base aid payment to each district or county that has submitted a final budget to the superintendent of public instruction in accordance with the provisions of 20-9-134;

(d) in May of the school fiscal year, the remainder of the guaranteed tax base aid payment to each district or county; and

(e) in June of the school fiscal year, the remaining payment to each district of direct state aid*, the total quality educator payment, the total at-risk student payment, the total Indian education for all payment, and the total American Indian achievement gap payment.*

(6) The distribution provided for in subsection (5) must occur by the last working day of each month."

Section 11. Section 20-10-142, MCA, is amended to read:

"20-10-142. Schedule of maximum reimbursement for individual transportation. The following rates for individual transportation constitute the maximum reimbursement to districts for individual transportation from state and county sources of transportation revenue under the provisions of 20-10-145 and 20-10-146. These rates constitute the limitation of the budgeted amounts for individual transportation for the ensuing school fiscal year. The schedules provided in this section may not be altered by any authority other than the legislature. When the trustees contract with the parent or guardian of any eligible transportee to provide individual transportation for each day of school attendance, they shall reimburse the parent or guardian for actual miles transported on the basis of the following schedule:

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(1) When a parent or guardian transports an eligible transportee or transportees from the residence of the parent or guardian to a school or to schools located within 3 miles of one another, the total reimbursement for each day of attendance is determined by multiplying the distance in miles between the residence and the school, or the most distant school if more than one, by 2, subtracting 6 miles from the product, and multiplying the difference by ~~25~~ *35* cents, provided that:

(a) if two or more eligible transportees are transported by a parent or guardian to two or more schools located within 3 miles of one another and if the schools are operated by different school districts, the total amount of the reimbursement must be divided equally between the districts;

(b) if two or more eligible transportees are transported by a parent or guardian to two or more schools located more than 3 miles from one another, the parent or guardian must be separately reimbursed for transporting the eligible transportee or transportees to each school;

(c) if a parent transports two or more eligible transportees to a school and a bus stop that are located within 3 miles of one another, the total reimbursement must be determined under the provisions of this subsection (1) and must be divided equally between the district operating the school and the district operating the bus;

(d) if a parent transporting two or more eligible transportees to a school or bus stop must, because of varying arrival and departure times, make more than one round-trip journey to the bus stop or school, the total reimbursement allowed by this section is limited to one round trip a day for each scheduled arrival or departure time;

(e) notwithstanding subsection (1)(a), (1)(b), (1)(c), or (1)(d), a reimbursement may not be less than ~~25~~ *35* cents a day.

(2) When the parent or guardian transports an eligible transportee or transportees from the residence to a bus stop of a bus route approved by the trustees for the transportation of the transportee or transportees, the total reimbursement for each day of attendance is determined by multiplying the distance in miles between the residence and the bus stop by 2, subtracting 6 miles from the product, and multiplying the difference by ~~25~~ *35* cents, provided that:

(a) if the eligible transportees attend schools in different districts but ride on one bus, the districts shall divide the total reimbursement equally; and

(b) if the parent or guardian is required to transport the eligible transportees to more than one bus, the parent or guardian must be separately reimbursed for transportation to each bus.

(3) When, because of excessive distances, impassable roads, or other special circumstances of isolation, the rates prescribed in subsection (1) or (2) would be an inadequate reimbursement for the transportation costs or would result in a physical hardship for the eligible transportee, a parent or guardian may request an increase in the reimbursement rate. A request for increased rates because of isolation must be made by the parent or guardian on the contract for individual transportation for the ensuing school fiscal year by indicating the special facts and circumstances that exist to justify the increase. Before an increased rate because of isolation may be paid to the requesting parent or guardian, the rate must be approved by the county transportation committee and the superintendent of public instruction after the trustees have indicated their approval or disapproval. Regardless of the action of the trustees and when approval is given by the committee and the superintendent of public instruction, the trustees shall pay the increased rate because of isolation. The increased rate is 1 1/2 times the rate prescribed in subsection (1).

(4) The state and county transportation reimbursement for an individual transportation contract may not exceed ~~$9.25~~ *$12.95* for each day of attendance for the first eligible transportee and ~~$6~~ *$8.40* for each day of attendance for each additional eligible transportee.

(5) When the isolated conditions of the household where an eligible transportee resides require an eligible transportee to live away from the household in order to attend school, the eligible transportee is eligible for the room and board reimbursement. Approval to receive the room and board reimbursement must be obtained in the same manner prescribed in subsection (3). The per diem rate for room and board is ~~$9.25~~ *$12.95* for one eligible transportee and ~~$6~~ *$8.40* for each additional eligible transportee of the same household.

(6) When the individual transportation provision is to be satisfied by supervised home study or supervised correspondence study, the reimbursement rate is the cost of the study, provided that the course of instruction is approved by the trustees and supervised by the district."

Section 12. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 20, chapter 9, part 3, and the provisions of Title 20, chapter 9, part 3, apply to [sections 1 through 4].

Section 13. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell band of Chippewa.

Section 14. Contingent voidness. If House Bill No. 1 is not passed and approved with an appropriation for BASE aid, then [this act] is void.

Section 15. Effective date — applicability. [This act] is effective July 1, 2006, and applies to school budgets for school fiscal years beginning on or after July 1, 2006.

Approved December 19, 2005

RESOLUTIONS

Passed by the 59th Montana Legislature in Special Session

SENATE RESOLUTION NO. 1

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT MADE BY THE CHIEF JUSTICE OF THE MONTANA SUPREME COURT AND SUBMITTED TO THE SENATE OF THE HONORABLE C. BRUCE LOBLE AS CHIEF WATER JUDGE OF THE STATE OF MONTANA.

WHEREAS, Chief Justice Karla Gray of the Montana Supreme Court made the appointment, below designated, pursuant to an Order of the Court, dated June 20, 2005; and

WHEREAS, the appointment has been submitted to the Senate, to wit:

C. Bruce Loble as Chief Water Judge of the State of Montana, to serve a 4-year term commencing July 1, 2005, and ending June 30, 2009.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the December 2005 Special Session of the 59th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment.

BE IT FURTHER RESOLVED, that the Secretary of the Senate immediately deliver a copy of this resolution, certified by the President and Secretary of the Senate, to the Secretary of State and a copy, certified by the Secretary of the Senate, to the Governor pursuant to section 5-5-303, MCA.

Adopted December 14, 2005

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SENATE RESOLUTION NO. 2

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT MADE BY THE GOVERNOR AND SUBMITTED TO THE SENATE OF HONORABLE JAMES JEREMIAH SHEA AS WORKERS' COMPENSATION JUDGE.

WHEREAS, the Governor of the State of Montana made the appointment, below designated, on July 22, 2005; and

WHEREAS, the appointment has been submitted to the Senate, to wit:

James Jeremiah Shea as Workers' Compensation Judge for the State of Montana, for a 6-year term of office commencing September 7, 2005, and ending September 6, 2011.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the December 2005 Special Session of the 59th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment.

BE IT FURTHER RESOLVED, that the Secretary of the Senate immediately deliver a copy of this resolution, certified by the President and Secretary of the Senate, to the Secretary of State and a copy, certified by the Secretary of the Senate, to the Governor pursuant to section 5-5-303, MCA.

Adopted December 14, 2005

SENATE RESOLUTION NO. 3

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED DECEMBER 6, 2005, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As Director of the Department of Public Health and Human Services, in accordance with sections 2-15-111 and 2-15-2201, MCA, Joan Miles, Helena, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the December 2005 Special Session of the 59th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted December 14, 2005

TABLES

Bill Number to Chapter Number

Bill Number	Chapter Number
HB 1	1
HB 2	2
HB 5	3
SB 1	4

Effective Dates by Chapter Number

Chapter Number	Bill Number	Effective Date
Ch. 1 §§ 1(1), (3), (9), and (10), and 3.	HB 1	12/16/2005
§§ 1(2), (4)-(8), and 2.		07/01/2006
Ch. 2	HB 2	12/19/2005
Ch. 3	HB 5	12/19/2005
Ch. 4	SB 1	07/01/2006

Effective Dates by Date

Effective Date	Chapter Number	Bill Number
12/16/2005	Ch. 1 §§ 1(1), (3), (9), and (10), and 3	HB 1
12/19/2005	Ch. 2	HB 2
12/19/2005	Ch. 3	HB 5
07/01/2006	Ch. 1	HB 1
07/01/2006	Ch. 4 §§ 1(2), (4)-(8), and 2	SB 1

Session Law to Code

Ch.	Sec.	MCA
1	1	Appropriations
	2	Contingent voidness
	3	Effective dates
2	1	5-5-228
	2	Appropriation
	3	Effective date
3	1	Appropriations
	2	Reversion
	3	Effective date
4	1	20-9-327
	2	20-9-328
	3	20-9-329
	4	20-9-330
	5	20-5-323
	6	20-7-102
	7	20-9-306
	8	20-9-311
	9	20-9-321
	10	20-9-344
	11	20-10-142
	12	Codification instruction
	13	Notification to tribal governments
	14	Contingent voidness
	15	Effective date — applicability

MONTANA CODE ANNOTATED

DECEMBER 2005 SPECIAL SESSION

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CODE SECTIONS AFFECTED

Title-Chapter-Section	Action	Chapter	Bill Number
5-5-228	amended	Ch. 2	HB 2
20-5-323	amended	Ch. 4	SB 1
20-7-102	amended	Ch. 4	SB 1
20-9-306	amended	Ch. 4	SB 1
20-9-311	amended	Ch. 4	SB 1
20-9-321	amended	Ch. 4	SB 1
20-9-327	enacted	Ch. 4	SB 1
20-9-328	enacted	Ch. 4	SB 1
20-9-329	enacted	Ch. 4	SB 1
20-9-330	enacted	Ch. 4	SB 1
20-9-344	amended	Ch. 4	SB 1
20-10-142	amended	Ch. 4	SB 1

MONTANA CODE ANNOTATED

Updated Statute Text

NOTE: In addition to the MCA sections listed above in the sections affected list, other sections are also being printed in this publication. These other sections have been updated in some manner since the original printing of the 2005 MCA; a note follows each section explaining what has been changed. These additional sections are:

20-1-214
Rules 17 and 23, Montana Rules of Appellate Procedure
Rule 22, Montana Justice and City Court Rules of Civil Procedure
30-14-2003 (noted on errata sheet enclosed with the 2005 MCA statute text set)
61-3-321 (noted on errata sheet enclosed with the 2005 MCA index set)
61-10-214 (noted on errata sheet enclosed with the 2005 MCA index set)

5-5-228. State administration and veterans' affairs interim committee. (1) The state administration and veterans' affairs interim committee has administrative rule review, draft legislation review, program evaluation, and monitoring functions for the public employee retirement plans and for the following executive branch agencies and the entities attached to the agencies for administrative purposes:

(a) department of administration;

(b) department of military affairs; and

(c) office of the secretary of state.

(2) The committee shall:

(a) consider the actuarial and fiscal soundness of the state's public employee retirement systems, based on reports from the teachers' retirement board, the public employees' retirement board, and the board of investments, and study and evaluate the equity and benefit structure of the state's public employee retirement systems;

(b) establish principles of sound fiscal and public policy as guidelines;

(c) as necessary, develop legislation to keep the retirement systems consistent with sound policy principles;

(d) solicit and review proposed statutory changes to any of the state's public employee retirement systems;

(e) report to the legislature on each legislative proposal reviewed by the committee. The report must include but is not limited to:

(i) a summary of the fiscal implications of the proposal;

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(ii) an analysis of the effect that the proposal may have on other public employee retirement systems;

(iii) an analysis of the soundness of the proposal as a matter of public policy;

(iv) any amendments proposed by the committee; and

(v) the committee's recommendation on whether the proposal should be enacted by the legislature.

(f) attach the committee's report to any proposal that the committee considered and that is or has been introduced as a bill during a legislative session; and

(g) publish, for legislators' use, information on the state's public employee retirement systems.

(3) The committee may:

(a) specify the date by which proposals affecting a retirement system must be submitted to the committee for the review contemplated under subsection (2)(d); and

(b) request personnel from state agencies, including boards, political subdivisions, and the state public employee retirement systems, to furnish any information and render any assistance that the committee may request.

History: En. Sec. 30, Ch. 19, L. 1999; amd. Sec. 15, Ch. 210, L. 2001; amd. Sec. 1, Ch. 2, Sp. L. December 2005.

Compiler's Comments

2005 Special Session Amendment: Chapter 2 inserted (2) concerning consideration of actuarial and fiscal soundness of public employee retirement systems and review and comment on proposed changes to public employee retirement systems; inserted (3) concerning procedures for review of proposals affecting a retirement system; and made minor changes in style. Amendment effective December 19, 2005.

20-1-214. School crossing guards. (1) The trustees of a school district or the administration of a private school may organize and supervise school crossing guards for a school under their authority.

(2) The department of justice shall, in cooperation with the superintendent of public instruction and in accordance with the sign manual adopted by the department of transportation, prescribe by rule the identification, training requirements, and operation of school crossing guards.

(3) The purpose of school crossing guards is to influence and encourage pupils of the school to refrain from crossing public highways at points other than regular crossings, to direct pupils as to where and when to cross highways, and to direct traffic when pupils are crossing highways at regular crossings.

History: En. Sec. 49, Ch. 352, L. 2003.

NOTE: Because of a typesetting error, (1) and (3) of this section were misprinted in the 2005 MCA.

20-5-323. *(Temporary)* **Tuition and transportation rates.** (1) Except as provided in subsections (2) through (5), whenever a child has approval to attend a school outside of the child's district of residence under the provisions of 20-5-320 or 20-5-321, the rate of tuition charged for a Montana resident student may not exceed 20% of the per-ANB maximum rate established in 20-9-306 for the year of attendance.

(2) The tuition for a child with a disability must be determined under rules adopted by the superintendent of public instruction for the calculation of tuition for special education pupils.

(3) The tuition rate for out-of-district placement pursuant to 20-5-321(1)(d) and (1)(e) for a student without disabilities who requires a program with costs that exceed the average district costs must be determined as the actual individual costs of providing that program according to the following:

(a) the district of attendance and the district, person, or entity responsible for the tuition payments shall approve an agreement with the district of attendance for the tuition cost;

(b) for a Montana resident student, 80% of the maximum per-ANB rate established in 20-9-306, received in the year for which the tuition charges are calculated must be subtracted from the per-student program costs for a Montana resident student; and

(c) the maximum tuition rate paid to a district under this section may not exceed $2,500 per ANB.

(4) When a child attends a public school of another state or province, the amount of daily tuition may not be greater than the average annual cost for each student in the child's district of

residence. This calculation for tuition purposes is determined by totaling all of the expenditures for all of the district budgeted funds for the preceding school fiscal year and dividing that amount by the October 1 enrollment in the preceding school fiscal year. For the purposes of this subsection, the following do not apply:

(a) placement of a child with a disability pursuant to Title 20, chapter 7, part 4;

(b) placement made in a state or province with a reciprocal tuition agreement pursuant to 20-5-314;

(c) an order issued under Title 40, chapter 4, part 2; or

(d) out-of-state placement by a state agency.

(5) When a child is placed by a state agency in an out-of-state residential facility, the state agency making the placement is responsible for the education costs resulting from the placement.

(6) The amount, if any, charged for transportation may not exceed the lesser of the average transportation cost for each student in the child's district of residence or 25 cents a mile. The average expenditures for the district transportation fund for the preceding school fiscal year must be calculated by dividing the transportation fund expenditures by the October 1 enrollment for the preceding fiscal year.

20-5-323. *(Effective July 1, 2006)* **Tuition and transportation rates.** (1) Except as provided in subsections (2) through (5), whenever a child has approval to attend a school outside of the child's district of residence under the provisions of 20-5-320 or 20-5-321, the rate of tuition charged for a Montana resident student may not exceed 20% of the per-ANB maximum rate established in 20-9-306 for the year of attendance.

(2) The tuition for a child with a disability must be determined under rules adopted by the superintendent of public instruction for the calculation of tuition for special education pupils.

(3) The tuition rate for out-of-district placement pursuant to 20-5-321(1)(d) and (1)(e) for a student without disabilities who requires a program with costs that exceed the average district costs must be determined as the actual individual costs of providing that program according to the following:

(a) the district of attendance and the district, person, or entity responsible for the tuition payments shall approve an agreement with the district of attendance for the tuition cost;

(b) for a Montana resident student, 80% of the maximum per-ANB rate established in 20-9-306, received in the year for which the tuition charges are calculated, must be subtracted from the per-student program costs for a Montana resident student; and

(c) the maximum tuition rate paid to a district under this section may not exceed $2,500 per ANB.

(4) When a child attends a public school of another state or province, the amount of daily tuition may not be greater than the average annual cost for each student in the child's district of residence. This calculation for tuition purposes is determined by totaling all of the expenditures for all of the district budgeted funds for the preceding school fiscal year and dividing that amount by the October 1 enrollment in the preceding school fiscal year. For the purposes of this subsection, the following do not apply:

(a) placement of a child with a disability pursuant to Title 20, chapter 7, part 4;

(b) placement made in a state or province with a reciprocal tuition agreement pursuant to 20-5-314;

(c) an order issued under Title 40, chapter 4, part 2; or

(d) out-of-state placement by a state agency.

(5) When a child is placed by a state agency in an out-of-state residential facility, the state agency making the placement is responsible for the education costs resulting from the placement.

(6) The amount, if any, charged for transportation may not exceed the lesser of the average transportation cost for each student in the child's district of residence or 35 cents a mile. The average expenditures for the district transportation fund for the preceding school fiscal year must be calculated by dividing the transportation fund expenditures by the October 1 enrollment for the preceding fiscal year.

History: En. Sec. 4, Ch. 563, L. 1993; amd. Sec. 60, Ch. 633, L. 1993; amd. Sec. 2, Ch. 529, L. 1997; amd. Sec. 99(4), Ch. 51, L. 1999; amd. Sec. 1, Ch. 409, L. 2001; amd. Sec. 3, Ch. 464, L. 2001; amd. Sec. 1, Ch. 462, L. 2005; amd. Sec. 5, Ch. 4, Sp. L. December 2005.

Compiler's Comments

2005 Special Session Amendment: (Version effective July 1, 2006) Chapter 4 in (6) increased rate from 25 cents a mile to 35 cents a mile. Amendment effective July 1, 2006.

Effective Date — Applicability: Section 15, Ch. 4, Sp. L. December 2005, provided: "[This act] is effective July 1, 2006, and applies to school budgets for school fiscal years beginning on or after July 1, 2006."

20-7-102. *(Temporary)* **Accreditation of schools.** (1) The conditions under which each elementary school, each middle school, each junior high school, 7th and 8th grades funded at high school rates, and each high school operates must be reviewed by the superintendent of public instruction to determine compliance with the standards of accreditation. The accreditation status of every school must then be established by the board of public education upon the recommendation of the superintendent of public instruction. Notification of the accreditation status for the applicable school year or years must be given to each district by the superintendent of public instruction.

(2) A school may be accredited for a period consisting of 1, 2, 3, 4, or 5 school years, except that multiyear accreditation may be granted only to schools that are in compliance with 20-4-101.

(3) A nonpublic school may, through its governing body, request that the board of public education accredit the school. Nonpublic schools may be accredited in the same manner as provided in subsection (1).

(4) As used in this section, "7th and 8th grades funded at high school rates" means an elementary school district or K-12 district elementary program whose 7th and 8th grades are funded as provided in 20-9-306(11)(c)(ii).

20-7-102. *(Effective July 1, 2006)* **Accreditation of schools.** (1) The conditions under which each elementary school, each middle school, each junior high school, 7th and 8th grades funded at high school rates, and each high school operates must be reviewed by the superintendent of public instruction to determine compliance with the standards of accreditation. The accreditation status of each school must then be established by the board of public education upon the recommendation of the superintendent of public instruction. Notification of the accreditation status for the applicable school year or years must be given to each district by the superintendent of public instruction.

(2) A school may be accredited for a period consisting of 1, 2, 3, 4, or 5 school years, except that multiyear accreditation may be granted only to schools that are in compliance with 20-4-101.

(3) A nonpublic school may, through its governing body, request that the board of public education accredit the school. Nonpublic schools may be accredited in the same manner as provided in subsection (1).

(4) As used in this section, "7th and 8th grades funded at high school rates" means an elementary school district or K-12 district elementary program whose 7th and 8th grades are funded as provided in 20-9-306(14)(c)(ii).

History: En. 75-7502 by Sec. 373, Ch. 5, L. 1971; amd. Sec. 4, Ch. 352, L. 1974; R.C.M. 1947, 75-7502; amd. Sec. 1, Ch. 270, L. 1979; amd. Sec. 1, Ch. 150, L. 1983; amd. Sec. 1, Ch. 73, L. 2001; amd. Secs. 3, 4, Ch. 462, L. 2005; amd. Sec. 6, Ch. 4, Sp. L. December 2005.

Compiler's Comments

2005 Special Session Amendment — Code Commissioner Clarification: (Version effective July 1, 2006) Chapter 4 in (4) at end substituted "20-9-306(14)(c)(ii)" for "20-9-306(11)(c)(ii)"; and made minor changes in style. Amendment effective July 1, 2006.

(Former July 1, 2007, version) In (4) at end substituted "20-9-306(14)(c)(ii)" for "20-9-306(10)(c)(ii)"; and made minor changes in style.

Because the effect of the amendments to the July 1, 2007, version was to make the section identical to the July 1, 2006, version, the code commissioner has not codified the July 1, 2007, version. The amendments also rendered the termination date provided in sec. 25(2), Ch. 462, L. 2005, ineffective.

Effective Date — Applicability: Section 15, Ch. 4, Sp. L. December 2005, provided: "[This act] is effective July 1, 2006, and applies to school budgets for school fiscal years beginning on or after July 1, 2006."

20-9-306. *(Temporary)* **Definitions.** As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

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(1) "BASE" means base amount for school equity.

(2) "BASE aid" means:

(a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district; and

(b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the special education allowable cost payment.

(3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of the basic entitlement, 80% of the total per-ANB entitlement, and 140% of the special education allowable cost payment.

(4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through 20-9-369.

(5) "BASE funding program" means the state program for the equitable distribution of the state's share of the cost of Montana's basic system of public elementary schools and high schools, through county equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

(6) "Basic entitlement" means:

(a) $225,273 for each high school district;

(b) $20,275 for each elementary school district or K-12 district elementary program without an approved and accredited junior high school or middle school; and

(c) the prorated entitlement for each elementary school district or K-12 district elementary program with an approved and accredited junior high school or middle school, calculated as follows using either the current year ANB or the 3-year ANB provided for in 20-9-311:

(i) $20,275 times the ratio of the ANB for kindergarten through grade 6 to the total ANB of kindergarten through grade 8; plus

(ii) $225,273 times the ratio of the ANB for grades 7 and 8 to the total ANB of kindergarten through grade 8.

(7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to 20-9-311.

(8) "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district and funded with state and county equalization aid.

(9) "Maximum general fund budget" means a district's general fund budget amount calculated from the basic entitlement for the district, the total per-ANB entitlement for the district, and the greater of:

(a) 175% of special education allowable cost payments; or

(b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a maximum allowable ratio of 200%.

(10) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted that is above the BASE budget and below the maximum general fund budget for a district.

(11) "Total per-ANB entitlement" means the district entitlement resulting from the following calculations and using either the current year ANB or the 3-year ANB provided for in 20-9-311:

(a) for a high school district or a K-12 district high school program, a maximum rate of $5,584 for the first ANB is decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;

(b) for an elementary school district or a K-12 district elementary program without an approved and accredited junior high school or middle school, a maximum rate of $4,366 for the first ANB is decreased at the rate of 20 cents per ANB for each additional ANB of the district up

through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(c) for an elementary school district or a K-12 district elementary program with an approved and accredited junior high school or middle school, the sum of:

(i) a maximum rate of $4,366 for the first ANB for kindergarten through grade 6 is decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(ii) a maximum rate of $5,584 for the first ANB for grades 7 and 8 is decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB. *(Terminates June 30, 2006—sec. 25(1), Ch. 462, L. 2005.)*

20-9-306. *(Effective July 1, 2006)* **Definitions.** As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "BASE" means base amount for school equity.

(2) "BASE aid" means:

(a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district;

(b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the special education allowable cost payment;

(c) the total quality educator payment;

(d) the total at-risk student payment;

(e) the total Indian education for all payment; and

(f) the total American Indian achievement gap payment.

(3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of the basic entitlement, 80% of the total per-ANB entitlement, 100% of the total quality educator payment, 100% of the total at-risk student payment, 100% of the total Indian education for all payment, 100% of the total American Indian achievement gap payment, and 140% of the special education allowable cost payment.

(4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through 20-9-369.

(5) "BASE funding program" means the state program for the equitable distribution of the state's share of the cost of Montana's basic system of public elementary schools and high schools, through county equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

(6) "Basic entitlement" means:

(a) $230,199 for each high school district;

(b) $20,718 for each elementary school district or K-12 district elementary program without an approved and accredited junior high school or middle school; and

(c) the prorated entitlement for each elementary school district or K-12 district elementary program with an approved and accredited junior high school or middle school, calculated as follows using either the current year ANB or the 3-year ANB provided for in 20-9-311:

(i) $20,718 times the ratio of the ANB for kindergarten through grade 6 to the total ANB of kindergarten through grade 8; plus

(ii) $230,199 times the ratio of the ANB for grades 7 and 8 to the total ANB of kindergarten through grade 8.

(7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to 20-9-311.

(8) "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district and funded with state and county equalization aid.

(9) "Maximum general fund budget" means a district's general fund budget amount calculated from the basic entitlement for the district, the total per-ANB entitlement for the

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district, the total quality educator payment, the total at-risk student payment, the total Indian education for all payment, the total American Indian achievement gap payment, and the greater of:

(a) 175% of special education allowable cost payments; or

(b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a maximum allowable ratio of 200%.

(10) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted that is above the BASE budget and below the maximum general fund budget for a district.

(11) "Total American Indian achievement gap payment" means the payment resulting from multiplying $200 times the number of American Indian students enrolled in the district as provided in 20-9-330.

(12) "Total at-risk student payment" means the payment resulting from the distribution of any funds appropriated for the purposes of 20-9-328.

(13) "Total Indian education for all payment" means the payment resulting from multiplying $20.40 times the ANB of the district or $100 for each district, whichever is greater, as provided for in 20-9-329.

(14) "Total per-ANB entitlement" means the district entitlement resulting from the following calculations and using either the current year ANB or the 3-year ANB provided for in 20-9-311:

(a) for a high school district or a K-12 district high school program, a maximum rate of $5,704 for the first ANB is decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;

(b) for an elementary school district or a K-12 district elementary program without an approved and accredited junior high school or middle school, a maximum rate of $4,456 for the first ANB is decreased at the rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(c) for an elementary school district or a K-12 district elementary program with an approved and accredited junior high school or middle school, the sum of:

(i) a maximum rate of $4,456 for the first ANB for kindergarten through grade 6 is decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(ii) a maximum rate of $5,704 for the first ANB for grades 7 and 8 is decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB.

(15) "Total quality educator payment" means the payment resulting from multiplying $2,000 times the number of full-time equivalent educators as provided in 20-9-327.

History: En. Sec. 1, Ch. 633, L. 1993; amd. Sec. 1, Ch. 38, Sp. L. November 1993; amd. Secs. 1, 2, Ch. 437, L. 1997; amd. Sec. 1, Ch. 211, L. 1999; amd. Sec. 8, Ch. 11, Sp. L. May 2000; amd. Secs. 1, 2, Ch. 231, L. 2001; amd. Secs. 1, 2, Ch. 556, L. 2001; amd. Secs. 2, 3, Ch. 550, L. 2003; amd. Secs. 10, 11, Ch. 462, L. 2005; amd. Sec. 7, Ch. 4, Sp. L. December 2005.

Compiler's Comments

2005 Special Session Amendment — Code Commissioner Clarification: (Version effective July 1, 2006) Chapter 4 in definition of BASE aid inserted (c) concerning the total quality educator payment, (d) concerning the total at-risk student payment, (e) concerning the total Indian education for all payment, and (f) concerning the total American Indian achievement gap payment; in definition of BASE budget near middle inserted references to the total quality educator payment, the total at-risk student payment, the total Indian education for all payment, and the total American Indian achievement gap payment; in definition of maximum general fund budget near end of introductory clause inserted references to the total quality educator payment, the total at-risk student payment, the total Indian education for all payment, and the total American Indian achievement gap payment; and inserted definitions of total American Indian achievement gap payment, total at-risk student payment, total Indian education for all payment, and total quality educator payment. Amendment effective July 1, 2006.

(Former July 1, 2007, version) In definition of basic entitlement in (a) and (c)(ii) increased entitlement from $220,646 to $230,199, in (b) and (c)(i) increased entitlement from $19,859 to $20,718, and in (c) at end after "follows" inserted "using either the current year ANB or the 3-year ANB provided for in 20-9-311"; inserted definition of budget unit; in definition of total per-ANB entitlement in introductory clause at end after "calculations" inserted "and using

either the current year ANB or the 3-year ANB provided for in 20-9-311", in (a) and (c)(ii) increased rate from $5,371 to $5,704, and in (b) and (c)(i) increased rate from $4,031 to $4,456; and made minor changes in style.

Because the effect of the amendments to the July 1, 2007, version was to make the section identical to the July 1, 2006, version, the code commissioner has not codified the July 1, 2007, version. The amendments also rendered the termination date provided in sec. 25(2), Ch. 462, L. 2005, ineffective.

Effective Date — Applicability: Section 15, Ch. 4, Sp. L. December 2005, provided: "[This act] is effective July 1, 2006, and applies to school budgets for school fiscal years beginning on or after July 1, 2006."

20-9-311. *(Temporary)* **Calculation of average number belonging (ANB) — three-year averaging.** (1) Average number belonging (ANB) must be computed for each budget unit as follows:

(a) compute an average enrollment by adding a count of regularly enrolled full-time pupils who were enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils on February 1 of the prior school fiscal year, or the next school day if those dates do not fall on a school day, and divide the sum by two; and

(b) multiply the average enrollment calculated in subsection (1)(a) by the sum of 180 and the approved pupil-instruction-related days for the current school fiscal year and divide by 180.

(2) For the purpose of calculating ANB under subsection (1), up to 7 approved pupil-instruction-related days may be included in the calculation.

(3) When a school district has approval to operate less than the minimum aggregate hours under 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

(4) (a) Except as provided in subsection (5), for the purpose of calculating ANB, enrollment in an education program:

(i) from 181 to 359 aggregate hours of pupil instruction per school year is counted as one-quarter-time enrollment;

(ii) from 360 to 539 aggregate hours of pupil instruction per school year is counted as half-time enrollment;

(iii) from 540 to 719 aggregate hours of pupil instruction per school year is counted as three-quarter-time enrollment; and

(iv) 720 or more aggregate hours of pupil instruction per school year is counted as full-time enrollment.

(b) Enrollment in a program intended to provide fewer than 180 aggregate hours of pupil instruction per school year may not be included for purposes of ANB.

(c) Enrollment in a self-paced program or course may be converted to an hourly equivalent based on the hours necessary and appropriate to provide the course within a regular classroom schedule.

(d) A pupil in grades 1 through 12 who is concurrently enrolled in more than one public school, program, or district may not be counted as more than one full-time pupil for ANB purposes.

(5) In calculating the ANB for pupils enrolled in a program established under 20-7-117(1), enrollment in a program that provides 360 or more aggregate hours of pupil instruction per school year must be counted as one-half pupil for ANB purposes.

(6) When a pupil has been absent, with or without excuse, for more than 10 consecutive school days, the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil resumes attendance prior to the day of the enrollment count.

(7) The enrollment of prekindergarten pupils, as provided in 20-7-117, may not be included in the ANB calculations.

(8) The average number belonging of the regularly enrolled, full-time pupils for the public schools of a district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the schools of the district, except that the ANB is calculated as a separate budget unit when:

(a) (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or town located in the district and at least 20 miles from any other school of the district, the number of regularly enrolled, full-time pupils of the school must be calculated as a separate budget unit for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

(ii) a school of the district is located more than 20 miles from any other school of the district and incorporated territory is not involved in the district, the number of regularly enrolled,

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full-time pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

(iii) the superintendent of public instruction approves an application not to aggregate when conditions exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel, or when any other condition exists that would result in an unusual hardship to the pupils of the school if they were transported to another school, the number of regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district; or

(iv) two or more districts consolidate or annex under the provisions of 20-6-422 or 20-6-423, the ANB and the basic entitlements of the component districts must be calculated separately for a period of 3 years following the consolidation or annexation. Each district shall retain a percentage of its basic entitlement for 3 additional years as follows:

(A) 75% of the basic entitlement for the fourth year;

(B) 50% of the basic entitlement for the fifth year; and

(C) 25% of the basic entitlement for the sixth year.

(b) a junior high school has been approved and accredited as a junior high school, all of the regularly enrolled, full-time pupils of the junior high school must be considered as high school district pupils for ANB purposes;

(c) a middle school has been approved and accredited, all pupils below the 7th grade must be considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered high school pupils for ANB purposes; or

(d) a school has not been accredited by the board of public education, the regularly enrolled, full-time pupils attending the nonaccredited school are not eligible for average number belonging calculation purposes, nor will an average number belonging for the nonaccredited school be used in determining the BASE funding program for the district.

(9) The district shall provide the superintendent of public instruction with semiannual reports of school attendance, absence, and enrollment for regularly enrolled students, using a format determined by the superintendent.

(10) (a) Except as provided in subsections (10)(b) and (10)(c), enrollment in a basic education program provided by the district through any combination of onsite or offsite instruction may be included for ANB purposes only if the pupil is offered access to the complete range of educational services for the basic education program required by the accreditation standards adopted by the board of public education.

(b) Access to school programs and services for a student placed by the trustees in a private program for special education may be limited to the programs and services specified in an approved individual education plan supervised by the district.

(c) Access to school programs and services for a student who is incarcerated in a facility, other than a youth detention center, may be limited to the programs and services provided by the district at district expense under an agreement with the incarcerating facility.

(d) This subsection (10) may not be construed to require a school district to offer access to activities governed by an organization having jurisdiction over interscholastic activities, contests, and tournaments to a pupil who is not otherwise eligible under the rules of the organization.

(11) A district may include only, for ANB purposes, an enrolled pupil who is otherwise eligible under this title and who is:

(a) a resident of the district or a nonresident student admitted by trustees under a student attendance agreement and who is attending a school of the district;

(b) unable to attend school due to a medical reason certified by a medical doctor and receiving individualized educational services supervised by the district, at district expense, at a home or facility that does not offer an educational program;

(c) unable to attend school due to the student's incarceration in a facility, other than a youth detention center, and who is receiving individualized educational services supervised by the district, at district expense, at a home or facility that does not offer an educational program;

(d) receiving special education and related services, other than day treatment, under a placement by the trustees at a private nonsectarian school or private program if the pupil's services are provided at the district's expense under an approved individual education plan supervised by the district;

(e) participating in the running start program at district expense under 20-9-706;

(f) receiving educational services, provided by the district, using appropriately licensed district staff at a private residential program or private residential facility licensed by the department of public health and human services;

(g) enrolled in an educational program or course provided at district expense using electronic or offsite delivery methods, including but not limited to tutoring, distance learning programs, online programs, and technology delivered learning programs, while attending a school of the district or any other nonsectarian offsite instructional setting with the approval of the trustees of the district. The pupil shall:

(i) meet the residency requirements for that district as provided in 1-1-215;

(ii) live in the district and must be eligible for educational services under the Individuals With Disabilities Education Act or under 29 U.S.C. 794; or

(iii) attend school in the district under a mandatory attendance agreement as provided in 20-5-321.

(h) a resident of the district attending a Montana job corps program under an interlocal agreement with the district under 20-9-707.

(12) (a) For an elementary or high school district that has been in existence for 3 or more years, the district's maximum general fund budget and BASE budget for the ensuing year must be calculated using the current year ANB for all budget units or the 3-year average ANB for all budget units, whichever generates the greatest maximum general fund budget.

(b) For a K-12 district that has been in existence for 3 years or more, the district's maximum general fund budget and BASE budget for the ensuing year must be calculated separately for the elementary and high school programs pursuant to subsection (12)(a) and then combined.

(13) The term "3-year ANB" means an average ANB over the most recent 3-year period, calculated by:

(a) adding the ANB for the budget unit for the ensuing school fiscal year to the ANB for each of the previous 2 school fiscal years; and

(b) dividing the sum calculated under subsection (13)(a) by three.

20-9-311. *(Effective July 1, 2006)* **Calculation of average number belonging (ANB) — three-year averaging.** (1) Average number belonging (ANB) must be computed for each budget unit as follows:

(a) compute an average enrollment by adding a count of regularly enrolled full-time pupils who were enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils on February 1 of the prior school fiscal year, or the next school day if those dates do not fall on a school day, and divide the sum by two; and

(b) multiply the average enrollment calculated in subsection (1)(a) by the sum of 180 and the approved pupil-instruction-related days for the current school fiscal year and divide by 180.

(2) For the purpose of calculating ANB under subsection (1), up to 7 approved pupil-instruction-related days may be included in the calculation.

(3) When a school district has approval to operate less than the minimum aggregate hours under 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

(4) (a) Except as provided in subsection (5), for the purpose of calculating ANB, enrollment in an education program:

(i) from 181 to 359 aggregate hours of pupil instruction per school year is counted as one-quarter-time enrollment;

(ii) from 360 to 539 aggregate hours of pupil instruction per school year is counted as half-time enrollment;

(iii) from 540 to 719 aggregate hours of pupil instruction per school year is counted as three-quarter-time enrollment; and

(iv) 720 or more aggregate hours of pupil instruction per school year is counted as full-time enrollment.

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(b) Enrollment in a program intended to provide fewer than 180 aggregate hours of pupil instruction per school year may not be included for purposes of ANB.

(c) Enrollment in a self-paced program or course may be converted to an hourly equivalent based on the hours necessary and appropriate to provide the course within a regular classroom schedule.

(d) A pupil in grades 1 through 12 who is concurrently enrolled in more than one public school, program, or district may not be counted as more than one full-time pupil for ANB purposes.

(5) In calculating the ANB for pupils enrolled in a program established under 20-7-117(1), enrollment in a program that provides 360 or more aggregate hours of pupil instruction per school year must be counted as one-half pupil for ANB purposes.

(6) When a pupil has been absent, with or without excuse, for more than 10 consecutive school days, the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil resumes attendance prior to the day of the enrollment count.

(7) The enrollment of prekindergarten pupils, as provided in 20-7-117, may not be included in the ANB calculations.

(8) The average number belonging of the regularly enrolled, full-time pupils for the public schools of a district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the schools of the district, except that the ANB is calculated as a separate budget unit when:

(a) (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or town located in the district and at least 20 miles from any other school of the district, the number of regularly enrolled, full-time pupils of the school must be calculated as a separate budget unit for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

(ii) a school of the district is located more than 20 miles from any other school of the district and incorporated territory is not involved in the district, the number of regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

(iii) the superintendent of public instruction approves an application not to aggregate when conditions exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel, or when any other condition exists that would result in an unusual hardship to the pupils of the school if they were transported to another school, the number of regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district; or

(iv) two or more districts consolidate or annex under the provisions of 20-6-422 or 20-6-423, the ANB and the basic entitlements of the component districts must be calculated separately for a period of 3 years following the consolidation or annexation. Each district shall retain a percentage of its basic entitlement for 3 additional years as follows:

(A) 75% of the basic entitlement for the fourth year;

(B) 50% of the basic entitlement for the fifth year; and

(C) 25% of the basic entitlement for the sixth year.

(b) a junior high school has been approved and accredited as a junior high school, all of the regularly enrolled, full-time pupils of the junior high school must be considered as high school district pupils for ANB purposes;

(c) a middle school has been approved and accredited, all pupils below the 7th grade must be considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered high school pupils for ANB purposes; or

(d) a school has not been accredited by the board of public education, the regularly enrolled, full-time pupils attending the nonaccredited school are not eligible for average number belonging calculation purposes, nor will an average number belonging for the nonaccredited school be used in determining the BASE funding program for the district.

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(9) The district shall provide the superintendent of public instruction with semiannual reports of school attendance, absence, and enrollment for regularly enrolled students, using a format determined by the superintendent.

(10) (a) Except as provided in subsections (10)(b) and (10)(c), enrollment in a basic education program provided by the district through any combination of onsite or offsite instruction may be included for ANB purposes only if the pupil is offered access to the complete range of educational services for the basic education program required by the accreditation standards adopted by the board of public education.

(b) Access to school programs and services for a student placed by the trustees in a private program for special education may be limited to the programs and services specified in an approved individual education plan supervised by the district.

(c) Access to school programs and services for a student who is incarcerated in a facility, other than a youth detention center, may be limited to the programs and services provided by the district at district expense under an agreement with the incarcerating facility.

(d) This subsection (10) may not be construed to require a school district to offer access to activities governed by an organization having jurisdiction over interscholastic activities, contests, and tournaments to a pupil who is not otherwise eligible under the rules of the organization.

(11) A district may include only, for ANB purposes, an enrolled pupil who is otherwise eligible under this title and who is:

(a) a resident of the district or a nonresident student admitted by trustees under a student attendance agreement and who is attending a school of the district;

(b) unable to attend school due to a medical reason certified by a medical doctor and receiving individualized educational services supervised by the district, at district expense, at a home or facility that does not offer an educational program;

(c) unable to attend school due to the student's incarceration in a facility, other than a youth detention center, and who is receiving individualized educational services supervised by the district, at district expense, at a home or facility that does not offer an educational program;

(d) receiving special education and related services, other than day treatment, under a placement by the trustees at a private nonsectarian school or private program if the pupil's services are provided at the district's expense under an approved individual education plan supervised by the district;

(e) participating in the running start program at district expense under 20-9-706;

(f) receiving educational services, provided by the district, using appropriately licensed district staff at a private residential program or private residential facility licensed by the department of public health and human services;

(g) enrolled in an educational program or course provided at district expense using electronic or offsite delivery methods, including but not limited to tutoring, distance learning programs, online programs, and technology delivered learning programs, while attending a school of the district or any other nonsectarian offsite instructional setting with the approval of the trustees of the district. The pupil shall:

(i) meet the residency requirements for that district as provided in 1-1-215;

(ii) live in the district and must be eligible for educational services under the Individuals With Disabilities Education Act or under 29 U.S.C. 794; or

(iii) attend school in the district under a mandatory attendance agreement as provided in 20-5-321.

(h) a resident of the district attending a Montana job corps program under an interlocal agreement with the district under 20-9-707.

(12) (a) For an elementary or high school district that has been in existence for 3 years or more, the district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated using the current year ANB for all budget units or the 3-year average ANB for all budget units, whichever generates the greatest maximum general fund budget.

(b) For a K-12 district that has been in existence for 3 years or more, the district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated

separately for the elementary and high school programs pursuant to subsection (12)(a) and then combined.

(13) The term "3-year ANB" means an average ANB over the most recent 3-year period, calculated by:

(a) adding the ANB for the budget unit for the ensuing school fiscal year to the ANB for each of the previous 2 school fiscal years; and

(b) dividing the sum calculated under subsection (13)(a) by three. *(Terminates June 30, 2007—sec. 25(2), Ch. 462, L. 2005.)*

20-9-311. *(Effective July 1, 2007)* **Calculation of average number belonging (ANB) — three-year averaging.** (1) Average number belonging (ANB) must be computed as follows:

(a) compute an average enrollment by adding a count of regularly enrolled full-time pupils who were enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils on February 1 of the prior school fiscal year, or the next school day if those dates do not fall on a school day, and divide the sum by two; and

(b) multiply the average enrollment calculated in subsection (1)(a) by the sum of 180 and the approved pupil-instruction-related days for the current school fiscal year and divide by 180.

(2) For the purpose of calculating ANB under subsection (1), up to 7 approved pupil-instruction-related days may be included in the calculation.

(3) When a school district has approval to operate less than the minimum aggregate hours under 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

(4) (a) Except as provided in subsection (5), for the purpose of calculating ANB, enrollment in an education program:

(i) from 181 to 359 aggregate hours of pupil instruction per school year is counted as one-quarter-time enrollment;

(ii) from 360 to 539 aggregate hours of pupil instruction per school year is counted as half-time enrollment;

(iii) from 540 to 719 aggregate hours of pupil instruction per school year is counted as three-quarter-time enrollment; and

(iv) 720 or more aggregate hours of pupil instruction per school year is counted as full-time enrollment.

(b) Enrollment in a program intended to provide fewer than 180 aggregate hours of pupil instruction per school year may not be included for purposes of ANB.

(c) Enrollment in a self-paced program or course may be converted to an hourly equivalent based on the hours necessary and appropriate to provide the course within a regular classroom schedule.

(d) A pupil in grades 1 through 12 who is concurrently enrolled in more than one public school, program, or district may not be counted as more than one full-time pupil for ANB purposes.

(5) In calculating the ANB for pupils enrolled in a program established under 20-7-117(1), enrollment in a program that provides 360 or more aggregate hours of pupil instruction per school year must be counted as one-half pupil for ANB purposes.

(6) When a pupil has been absent, with or without excuse, for more than 10 consecutive school days, the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil resumes attendance prior to the day of the enrollment count.

(7) The enrollment of prekindergarten pupils, as provided in 20-7-117, may not be included in the ANB calculations.

(8) The average number belonging of the regularly enrolled, full-time pupils for the public schools of a district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the schools of the district, except that when:

(a) (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or town located in the district and at least 20 miles from any other school of the district, the number of regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

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(ii) a school of the district is located more than 20 miles from any other school of the district and incorporated territory is not involved in the district, the number of regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

(iii) the superintendent of public instruction approves an application not to aggregate when conditions exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel, or when any other condition exists that would result in an unusual hardship to the pupils of the school if they were transported to another school, the number of regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district; or

(iv) two or more districts consolidate or annex under the provisions of 20-6-422 or 20-6-423, the ANB and the basic entitlements of the component districts must be calculated separately for a period of 3 years following the consolidation or annexation. Each district shall retain a percentage of its basic entitlement for 3 additional years as follows:

(A) 75% of the basic entitlement for the fourth year;

(B) 50% of the basic entitlement for the fifth year; and

(C) 25% of the basic entitlement for the sixth year.

(b) a junior high school has been approved and accredited as a junior high school, all of the regularly enrolled, full-time pupils of the junior high school must be considered as high school district pupils for ANB purposes;

(c) a middle school has been approved and accredited, all pupils below the 7th grade must be considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered high school pupils for ANB purposes; or

(d) a school has not been accredited by the board of public education, the regularly enrolled, full-time pupils attending the nonaccredited school are not eligible for average number belonging calculation purposes, nor will an average number belonging for the nonaccredited school be used in determining the BASE funding program for the district.

(9) The district shall provide the superintendent of public instruction with semiannual reports of school attendance, absence, and enrollment for regularly enrolled students, using a format determined by the superintendent.

(10) (a) Except as provided in subsections (10)(b) and (10)(c), enrollment in a basic education program provided by the district through any combination of onsite or offsite instruction may be included for ANB purposes only if the pupil is offered access to the complete range of educational services for the basic education program required by the accreditation standards adopted by the board of public education.

(b) Access to school programs and services for a student placed by the trustees in a private program for special education may be limited to the programs and services specified in an approved individual education plan supervised by the district.

(c) Access to school programs and services for a student who is incarcerated in a facility, other than a youth detention center, may be limited to the programs and services provided by the district at district expense under an agreement with the incarcerating facility.

(d) This subsection (10) may not be construed to require a school district to offer access to activities governed by an organization having jurisdiction over interscholastic activities, contests, and tournaments to a pupil who is not otherwise eligible under the rules of the organization.

(11) A district may include only, for ANB purposes, an enrolled pupil who is otherwise eligible under this title and who is:

(a) a resident of the district or a nonresident student admitted by trustees under a student attendance agreement and who is attending a school of the district;

(b) unable to attend school due to a medical reason certified by a medical doctor and receiving individualized educational services supervised by the district, at district expense, at a home or facility that does not offer an educational program;

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(c) unable to attend school due to the student's incarceration in a facility, other than a youth detention center, and who is receiving individualized educational services supervised by the district, at district expense, at a home or facility that does not offer an educational program;

(d) receiving special education and related services, other than day treatment, under a placement by the trustees at a private nonsectarian school or private program if the pupil's services are provided at the district's expense under an approved individual education plan supervised by the district;

(e) participating in the running start program at district expense under 20-9-706;

(f) receiving educational services, provided by the district, using appropriately licensed district staff at a private residential program or private residential facility licensed by the department of public health and human services;

(g) enrolled in an educational program or course provided at district expense using electronic or offsite delivery methods, including but not limited to tutoring, distance learning programs, online programs, and technology delivered learning programs, while attending a school of the district or any other nonsectarian offsite instructional setting with the approval of the trustees of the district. The pupil shall:

(i) meet the residency requirements for that district as provided in 1-1-215;

(ii) live in the district and must be eligible for educational services under the Individuals With Disabilities Education Act or under 29 U.S.C. 794; or

(iii) attend school in the district under a mandatory attendance agreement as provided in 20-5-321.

(h) a resident of the district attending a Montana job corps program under an interlocal agreement with the district under 20-9-707.

(12) (a) For an elementary or high school district that has been in existence for 3 years or more, the district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated using the current year ANB for all budget units or the 3-year average ANB for all budget units, whichever generates the greatest maximum general fund budget.

(b) For a K-12 district that has been in existence for 3 years or more, the district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated separately for the elementary and high school programs pursuant to subsection (12)(a) and then combined.

(13) The term "3-year ANB" means an average ANB over the most recent 3-year period, calculated by:

(a) adding the ANB for the budget unit for the ensuing school fiscal year to the ANB for each of the previous 2 school fiscal years; and

(b) dividing the sum calculated under subsection (13)(a) by three.

History: En. 75-6902 by Sec. 252, Ch. 5, L. 1971; amd. Sec. 1, Ch. 345, L. 1973; amd. Sec. 1, Ch. 343, L. 1974; amd. Sec. 3, Ch. 352, L. 1974; amd. Sec. 1, Ch. 373, L. 1974; amd. Sec. 1, Ch. 132, L. 1975; R.C.M. 1947, 75-6902(part); amd. Sec. 8, Ch. 288, L. 1979; amd. Sec. 1, Ch. 498, L. 1987; amd. Sec. 6, Ch. 337, L. 1989; amd. Sec. 27, Ch. 11, Sp. L. June 1989; amd. Sec. 1, Ch. 250, L. 1991; amd. Secs. 20, 33, Ch. 633, L. 1993; amd. Sec. 1, Ch. 212, L. 1997; amd. Sec. 7, Ch. 430, L. 1997; amd. Sec. 10, Ch. 343, L. 1999; amd. Sec. 1, Ch. 252, L. 2001; amd. Sec. 11, Ch. 138, L. 2005; amd. Sec. 3, Ch. 215, L. 2005; amd. Sec. 13, Ch. 462, L. 2005; amd. Sec. 11, Ch. 510, L. 2005; amd. Sec. 8, Ch. 4, Sp. L. December 2005.

Compiler's Comments

2005 Special Session Amendment: (Version effective July 1, 2006) Chapter 4 in (12)(a) and (12)(b) near middle after "ensuing" inserted "school fiscal"; and made minor changes in style. Amendment effective July 1, 2006.

(Version effective July 1, 2007) Inserted (12) providing method of calculating a district's maximum general fund budget for elementary, high school, or K-12 districts that have been in existence for 3 or more years; and inserted (13) defining 3-year ANB and providing a method of calculating the 3-year ANB.

Effective Date — Applicability: Section 15, Ch. 4, Sp. L. December 2005, provided: "[This act] is effective July 1, 2006, and applies to school budgets for school fiscal years beginning on or after July 1, 2006."

20-9-321. *(Temporary)* **Allowable cost payment for special education.** (1) As used in this section, "ANB" means the current year ANB.

(2) The 3-year average ANB provided for in 20-9-311(12) does not apply to the calculation and distribution of state special education allowable cost payments provided for in this section.

(3) For the purpose of establishing the allowable cost payment for a current year special education program for a school district, the superintendent of public instruction shall determine

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the total special education payment to a school district, cooperative, or joint board for special education services formed under 20-3-361 prior to July 1, 1992, using the following factors:

(a) the district ANB student count as established pursuant to 20-9-311 and 20-9-313;

(b) a per-ANB amount for the special education instructional block grant;

(c) a per-ANB amount for the special education-related services block grant;

(d) an amount for cooperatives or joint boards meeting the requirements of 20-7-457, to compensate for the additional costs of operations and maintenance, travel, supportive services, recruitment, and administration; and

(e) any other data required by the superintendent of public instruction to administer the provisions of this section.

(4) (a) The total special education allocation must be distributed according to the following formula:

(i) 52.5% through instructional block grants;

(ii) 17.5% through related services block grants;

(iii) 25% to reimbursement of local districts; and

(iv) 5% to special education cooperatives and joint boards for administration and travel.

(b) Special education allowable cost payments outlined in subsection (4)(a) must be granted to each school district and cooperative with a special education program as follows:

(i) The instructional block grant limit prescribed in subsection (4)(a)(i) must be awarded to each school district, based on the district ANB and the per-ANB special education instructional amount.

(ii) The special education-related services block grant limit prescribed in subsection (4)(a)(ii) must be awarded to each school district that is not a cooperative member, based on the district ANB and the per-ANB special education-related services amount, or to a cooperative or joint board that meets the requirements of 20-7-457. The special education-related services block grant amount for districts that are members of approved cooperatives or a joint board must be awarded to the cooperatives or joint board.

(iii) If a district's allowable costs of special education exceed the total of the special education instructional and special education-related services block grant plus the required district match required by subsection (6), the district is eligible to receive at least a 40% reimbursement of the additional costs. To ensure that the total of reimbursements to all districts does not exceed 25% of the total special education allocation limit established in subsection (4)(a)(iii), reimbursement must be made to districts for amounts that exceed a threshold level calculated annually by the office of public instruction. The threshold level is calculated as a percentage amount above the sum of the district's block grants plus the required district match.

(iv) Of the amount distributed under subsection (4)(a)(iv), three-fifths must be distributed based on the ANB count of the school districts that are members of the special education cooperative or joint board and two-fifths must be distributed based on distances, population density, and the number of itinerant personnel under rules adopted by the superintendent of public instruction.

(5) The superintendent of public instruction shall adopt rules necessary to implement this section.

(6) A district shall provide a 25% local contribution for special education, matching every $3 of state special education instructional and special education-related services block grants with at least one local dollar. A district that is a cooperative member is required to provide the 25% match of the special education-related services grant amount to the special education cooperative.

(7) The superintendent of public instruction shall determine the actual district match based on the trustees' reports. Any unmatched portion reverts to the state and must be subtracted from the district's ensuing year's special education allowable cost payment.

(8) A district that demonstrates severe economic hardship because of exceptional special education costs may apply to the superintendent of public instruction for an advance on the reimbursement for the year in which the actual costs will be incurred.

20-9-321. *(Effective July 1, 2006)* **Allowable cost payment for special education.** (1) As used in this section, "ANB" means the current year ANB.

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(2) The 3-year average ANB provided for in 20-9-311 does not apply to the calculation and distribution of state special education allowable cost payments provided for in this section.

(3) For the purpose of establishing the allowable cost payment for a current year special education program for a school district, the superintendent of public instruction shall determine the total special education payment to a school district, cooperative, or joint board for special education services formed under 20-3-361 prior to July 1, 1992, using the following factors:

(a) the district ANB student count as established pursuant to 20-9-311 and 20-9-313;

(b) a per-ANB amount for the special education instructional block grant;

(c) a per-ANB amount for the special education-related services block grant;

(d) an amount for cooperatives or joint boards meeting the requirements of 20-7-457, to compensate for the additional costs of operations and maintenance, travel, supportive services, recruitment, and administration; and

(e) any other data required by the superintendent of public instruction to administer the provisions of this section.

(4) (a) The total special education allocation must be distributed according to the following formula:

(i) 52.5% through instructional block grants;

(ii) 17.5% through related services block grants;

(iii) 25% to reimbursement of local districts; and

(iv) 5% to special education cooperatives and joint boards for administration and travel.

(b) Special education allowable cost payments outlined in subsection (4)(a) must be granted to each school district and cooperative with a special education program as follows:

(i) The instructional block grant limit prescribed in subsection (4)(a)(i) must be awarded to each school district, based on the district ANB and the per-ANB special education instructional amount.

(ii) The special education-related services block grant limit prescribed in subsection (4)(a)(ii) must be awarded to each school district that is not a cooperative member, based on the district ANB and the per-ANB special education-related services amount, or to a cooperative or joint board that meets the requirements of 20-7-457. The special education-related services block grant amount for districts that are members of approved cooperatives or a joint board must be awarded to the cooperatives or joint board.

(iii) If a district's allowable costs of special education exceed the total of the special education instructional and special education-related services block grant plus the required district match required by subsection (6), the district is eligible to receive at least a 40% reimbursement of the additional costs. To ensure that the total of reimbursements to all districts does not exceed 25% of the total special education allocation limit established in subsection (4)(a)(iii), reimbursement must be made to districts for amounts that exceed a threshold level calculated annually by the office of public instruction. The threshold level is calculated as a percentage amount above the sum of the district's block grants plus the required district match.

(iv) Of the amount distributed under subsection (4)(a)(iv), three-fifths must be distributed based on the ANB count of the school districts that are members of the special education cooperative or joint board and two-fifths must be distributed based on distances, population density, and the number of itinerant personnel under rules adopted by the superintendent of public instruction.

(5) The superintendent of public instruction shall adopt rules necessary to implement this section.

(6) A district shall provide a 25% local contribution for special education, matching every $3 of state special education instructional and special education-related services block grants with at least one local dollar. A district that is a cooperative member is required to provide the 25% match of the special education-related services grant amount to the special education cooperative.

(7) The superintendent of public instruction shall determine the actual district match based on the trustees' reports. Any unmatched portion reverts to the state and must be subtracted from the district's ensuing year's special education allowable cost payment.

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(8) A district that demonstrates severe economic hardship because of exceptional special education costs may apply to the superintendent of public instruction for an advance on the reimbursement for the year in which the actual costs will be incurred.

History: En. 75-6905 by Sec. 255, Ch. 5, L. 1971; amd. Sec. 1, Ch. 404, L. 1971; amd. Sec. 1, Ch. 400, L. 1973; amd. Sec. 1, Ch. 345, L. 1974; amd. Sec. 1, Ch. 347, L. 1974; amd. Sec. 1, Ch. 518, L. 1975; amd. Sec. 1, Ch. 505, L. 1977; R.C.M. 1947, 75-6905(20) thru (22); amd. Sec. 1, Ch. 315, L. 1983; amd. Sec. 33, Ch. 11, Sp. L. June 1989; amd. Sec. 8, Ch. 249, L. 1991; amd. Sec. 27, Ch. 767, L. 1991; amd. Secs. 22, 23, Ch. 633, L. 1993; amd. Sec. 2, Ch. 145, L. 2001; amd. Sec. 15, Ch. 462, L. 2005; amd. Sec. 9, Ch. 4, Sp. L. December 2005.

Compiler's Comments

2005 Special Session Amendment — Code Commissioner Clarification: (Version effective July 1, 2006) Chapter 4 in (2) substituted "20-9-311" for "20-9-311(12)". Amendment effective July 1, 2006.

(Former July 1, 2007, version) Inserted (1) defining ANB as the current year ANB; inserted (2) providing that the 3-year average ANB does not apply to special education cost payment calculations; and made minor changes in style.

Because the effect of the amendments to the July 1, 2007, version was to make the section identical to the July 1, 2006, version, the code commissioner has not codified the July 1, 2007, version. The amendments also rendered the termination date provided in sec. 25(2), Ch. 462, L. 2005, ineffective.

Effective Date — Applicability: Section 15, Ch. 4, Sp. L. December 2005, provided: "[This act] is effective July 1, 2006, and applies to school budgets for school fiscal years beginning on or after July 1, 2006."

20-9-327. *(Effective July 1, 2006)* **Quality educator payment.** (1) (a) The state shall provide a quality educator payment to:

(i) public school districts, as defined in 20-6-101 and 20-6-701;

(ii) special education cooperatives, as described in 20-7-451;

(iii) the Montana school for the deaf and blind, as described in 20-8-101; and

(iv) state youth correctional facilities, as defined in 41-5-103.

(b) A special education cooperative that has not met the requirements of 20-7-453 and 20-7-454 may not be funded under the provisions of this section except by approval of the superintendent of public instruction.

(2) (a) The quality educator payment for special education cooperatives must be distributed directly to those entities by the superintendent of public instruction.

(b) The quality educator payment for the Montana school for the deaf and blind must be distributed to the Montana school for the deaf and blind.

(c) The quality educator payment for Pine Hills and Riverside youth correctional facilities must be distributed to those facilities by the department of corrections.

(3) The quality educator payment is $2,000 times the number of full-time equivalent educators, as reported to the superintendent of public instruction for accreditation purposes in the previous school year, each of whom:

(a) holds a valid certificate under the provisions of 20-4-106 and is employed by an entity listed in subsection (1) in a position that requires an educator license in accordance with the administrative rules adopted by the board of public education; or

(b) (i) is a licensed professional under 37-8-405, 37-8-415, 37-11-301, 37-15-301, 37-23-201, 37-24-301, or 37-25-302; and

(ii) is employed by an entity listed in subsection (1) to provide services to students.

History: En. Sec. 1, Ch. 4, Sp. L. December 2005.

Compiler's Comments

Effective Date — Applicability: Section 15, Ch. 4, Sp. L. December 2005, provided: "[This act] is effective July 1, 2006, and applies to school budgets for school fiscal years beginning on or after July 1, 2006."

20-9-328. *(Effective July 1, 2006)* **At-risk student payment.** (1) The state shall provide an at-risk student payment to public school districts, as defined in 20-6-101 and 20-6-701, for at-risk students, as defined in 20-1-101 and referred to in 20-9-309.

(2) The at-risk student payment must be distributed to public school districts by the office of public instruction in the same manner that the office of public instruction allocates the funds received under 20 U.S.C. 6332, et seq. The office of public instruction shall prorate payments to districts based upon the available appropriation.

(3) On or before September 15, 2010, the office of public instruction shall report to the governor and the legislature on the change in status of standardized test scores, graduation rates, and drop-out rates of at-risk students using fiscal year 2006 data as a baseline.

History: En. Sec. 2, Ch. 4, Sp. L. December 2005.

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Compiler's Comments

Effective Date — Applicability: Section 15, Ch. 4, Sp. L. December 2005, provided: "[This act] is effective July 1, 2006, and applies to school budgets for school fiscal years beginning on or after July 1, 2006."

20-9-329. *(Effective July 1, 2006)* **Indian education for all payment.** (1) The state shall provide an Indian education for all payment to public school districts, as defined in 20-6-101 and 20-6-701, to implement the provisions of Article X, section 1(2), of the Montana constitution and Title 20, chapter 1, part 5.

(2) The Indian education for all payment is the greater of $100 for each district or $20.40 for each ANB, calculated as provided in 20-9-311, for each fiscal year.

(3) The district shall deposit the payment in the general fund of the district.

History: En. Sec. 3, Ch. 4, Sp. L. December 2005.

Compiler's Comments

Effective Date — Applicability: Section 15, Ch. 4, Sp. L. December 2005, provided: "[This act] is effective July 1, 2006, and applies to school budgets for school fiscal years beginning on or after July 1, 2006."

20-9-330. *(Effective July 1, 2006)* **American Indian achievement gap payment.** (1) The state shall provide an American Indian achievement gap payment to public school districts, as defined in 20-6-101 and 20-6-701, for the purpose of closing the educational achievement gap that exists between American Indian students and non-Indian students.

(2) (a) The American Indian achievement gap payment is $200 for each American Indian student enrolled in the district based on the count of regularly enrolled students on the first Monday in October of the prior school year as reported to the office of public instruction.

(b) A school district may not require a student to disclose the student's race.

(3) The district shall deposit the payment in the general fund of the district.

(4) On or before September 15, 2010, the office of public instruction shall report to the governor and the legislature on the change in status of standardized test scores, graduation rates, and drop-out rates of American Indian students using fiscal year 2006 data as a baseline.

History: En. Sec. 4, Ch. 4, Sp. L. December 2005.

Compiler's Comments

Effective Date — Applicability: Section 15, Ch. 4, Sp. L. December 2005, provided: "[This act] is effective July 1, 2006, and applies to school budgets for school fiscal years beginning on or after July 1, 2006."

20-9-344. *(Temporary)* **Duties of board of public education for distribution of BASE aid.** (1) The board of public education shall administer and distribute the BASE aid and state advances for county equalization in the manner and with the powers and duties provided by law. The board of public education:

(a) shall adopt policies for regulating the distribution of BASE aid and state advances for county equalization in accordance with the provisions of law;

(b) may require reports from the county superintendents, county treasurers, and trustees as it considers necessary; and

(c) shall order the superintendent of public instruction to distribute the BASE aid on the basis of each district's annual entitlement to the aid as established by the superintendent of public instruction. In ordering the distribution of BASE aid, the board of public education may not increase or decrease the BASE aid distribution to any district on account of any difference that may occur during the school fiscal year between budgeted and actual receipts from any other source of school revenue.

(2) The board of public education may order the superintendent of public instruction to withhold distribution of BASE aid from a district when the district fails to:

(a) submit reports or budgets as required by law or rules adopted by the board of public education; or

(b) maintain accredited status.

(3) Prior to any proposed order by the board of public education to withhold distribution of BASE aid or county equalization money, the district is entitled to a contested case hearing before the board of public education, as provided under the Montana Administrative Procedure Act.

(4) If a district or county receives more BASE aid than it is entitled to, the county treasurer shall return the overpayment to the state upon the request of the superintendent of public instruction in the manner prescribed by the superintendent of public instruction.

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(5) Except as provided in 20-9-347(2), the BASE aid payment must be distributed according to the following schedule:

(a) from August to October of the school fiscal year, 10% of the direct state aid to each district;

(b) from December to April of the school fiscal year, 10% of the direct state aid to each district;

(c) in November of the school fiscal year, one-half of the guaranteed tax base aid payment to each district or county that has submitted a final budget to the superintendent of public instruction in accordance with the provisions of 20-9-134;

(d) in May of the school fiscal year, the remainder of the guaranteed tax base aid payment to each district or county; and

(e) in June of the school fiscal year, the remaining payment to each district of direct state aid.

(6) The distribution provided for in subsection (5) must occur by the last working day of each month.

20-9-344. *(Effective July 1, 2006)* **Duties of board of public education for distribution of BASE aid.** (1) The board of public education shall administer and distribute the BASE aid and state advances for county equalization in the manner and with the powers and duties provided by law. The board of public education:

(a) shall adopt policies for regulating the distribution of BASE aid and state advances for county equalization in accordance with the provisions of law;

(b) may require reports from the county superintendents, county treasurers, and trustees that it considers necessary; and

(c) shall order the superintendent of public instruction to distribute the BASE aid on the basis of each district's annual entitlement to the aid as established by the superintendent of public instruction. In ordering the distribution of BASE aid, the board of public education may not increase or decrease the BASE aid distribution to any district on account of any difference that may occur during the school fiscal year between budgeted and actual receipts from any other source of school revenue.

(2) The board of public education may order the superintendent of public instruction to withhold distribution of BASE aid from a district when the district fails to:

(a) submit reports or budgets as required by law or rules adopted by the board of public education; or

(b) maintain accredited status.

(3) Prior to any proposed order by the board of public education to withhold distribution of BASE aid or county equalization money, the district is entitled to a contested case hearing before the board of public education, as provided under the Montana Administrative Procedure Act.

(4) If a district or county receives more BASE aid than it is entitled to, the county treasurer shall return the overpayment to the state upon the request of the superintendent of public instruction in the manner prescribed by the superintendent of public instruction.

(5) Except as provided in 20-9-347(2), the BASE aid payment must be distributed according to the following schedule:

(a) from August to October of the school fiscal year, to each district 10% of:

(i) direct state aid;

(ii) the total quality educator payment;

(iii) the total at-risk student payment;

(iv) the total Indian education for all payment; and

(v) the total American Indian achievement gap payment;

(b) from December to April of the school fiscal year, to each district 10% of:

(i) direct state aid;

(ii) the total quality educator payment;

(iii) the total at-risk student payment;

(iv) the total Indian education for all payment; and

(v) the total American Indian achievement gap payment;

(c) in November of the school fiscal year, one-half of the guaranteed tax base aid payment to each district or county that has submitted a final budget to the superintendent of public instruction in accordance with the provisions of 20-9-134;

(d) in May of the school fiscal year, the remainder of the guaranteed tax base aid payment to each district or county; and

(e) in June of the school fiscal year, the remaining payment to each district of direct state aid, the total quality educator payment, the total at-risk student payment, the total Indian education for all payment, and the total American Indian achievement gap payment.

(6) The distribution provided for in subsection (5) must occur by the last working day of each month.

History: En. 75-6917 by Sec. 267, Ch. 5, L. 1971; amd. Sec. 1, Ch. 166, L. 1973; amd. Sec. 2, Ch. 345, L. 1973; amd. Sec. 1, Ch. 346, L. 1973; amd. Sec. 1, Ch. 55, L. 1974; amd. Sec. 41, Ch. 213, L. 1975; R.C.M. 1947, 75-6917; amd. Sec. 7, Ch. 274, L. 1981; amd. Sec. 6, Ch. 317, L. 1981; amd. Secs. 1, 3, Ch. 236, L. 1983; amd. Sec. 1, Ch. 287, L. 1983; amd. Sec. 1, Ch. 18, Sp. L. June 1986; amd. Sec. 4, Ch. 1, Sp. L. June 1989; amd. Sec. 38, Ch. 11, Sp. L. June 1989; amd. Sec. 6, Ch. 622, L. 1991; amd. Sec. 28, Ch. 767, L. 1991; amd. Sec. 1, Ch. 1, Sp. L. July 1992; amd. Sec. 8, Ch. 6, Sp. L. July 1992; amd. Sec. 25, Ch. 633, L. 1993; amd. Sec. 1, Ch. 308, L. 1999; amd. Sec. 62, Ch. 114, L. 2003; amd. Sec. 10, Ch. 4, Sp. L. December 2005.

Compiler's Comments

2005 Special Session Amendment: Chapter 4 in (5)(a), (5)(b), and (5)(e) inserted references to the total quality educator payment, the total at-risk student payment, the total Indian education for all payment, and the total American Indian achievement gap payment; and made minor changes in style. Amendment effective July 1, 2006.

Effective Date — Applicability: Section 15, Ch. 4, Sp. L. December 2005, provided: "[This act] is effective July 1, 2006, and applies to school budgets for school fiscal years beginning on or after July 1, 2006."

20-10-142. *(Temporary)* **Schedule of maximum reimbursement for individual transportation.** The following rates for individual transportation constitute the maximum reimbursement to districts for individual transportation from state and county sources of transportation revenue under the provisions of 20-10-145 and 20-10-146. These rates constitute the limitation of the budgeted amounts for individual transportation for the ensuing school fiscal year. The schedules provided in this section may not be altered by any authority other than the legislature. When the trustees contract with the parent or guardian of any eligible transportee to provide individual transportation for each day of school attendance, they shall reimburse the parent or guardian for actual miles transported on the basis of the following schedule:

(1) When a parent or guardian transports an eligible transportee or transportees from the residence of the parent or guardian to a school or to schools located within 3 miles of one another, the total reimbursement for each day of attendance is determined by multiplying the distance in miles between the residence and the school, or the most distant school if more than one, by 2, subtracting 6 miles from the product, and multiplying the difference by 25 cents, provided that:

(a) if two or more eligible transportees are transported by a parent or guardian to two or more schools located within 3 miles of one another and if the schools are operated by different school districts, the total amount of the reimbursement must be divided equally between the districts;

(b) if two or more eligible transportees are transported by a parent or guardian to two or more schools located more than 3 miles from one another, the parent or guardian must be separately reimbursed for transporting the eligible transportee or transportees to each school;

(c) if a parent transports two or more eligible transportees to a school and a bus stop that are located within 3 miles of one another, the total reimbursement must be determined under the provisions of this subsection (1) and must be divided equally between the district operating the school and the district operating the bus;

(d) if a parent transporting two or more eligible transportees to a school or bus stop must, because of varying arrival and departure times, make more than one round-trip journey to the bus stop or school, the total reimbursement allowed by this section is limited to one round trip a day for each scheduled arrival or departure time;

(e) notwithstanding subsection (1)(a), (1)(b), (1)(c), or (1)(d), a reimbursement may not be less than 25 cents a day.

(2) When the parent or guardian transports an eligible transportee or transportees from the residence to a bus stop of a bus route approved by the trustees for the transportation of the transportee or transportees, the total reimbursement for each day of attendance is determined

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by multiplying the distance in miles between the residence and the bus stop by 2, subtracting 6 miles from the product, and multiplying the difference by 25 cents, provided that:

(a) if the eligible transportees attend schools in different districts but ride on one bus, the districts shall divide the total reimbursement equally; and

(b) if the parent or guardian is required to transport the eligible transportees to more than one bus, the parent or guardian must be separately reimbursed for transportation to each bus.

(3) When, because of excessive distances, impassable roads, or other special circumstances of isolation, the rates prescribed in subsection (1) or (2) would be an inadequate reimbursement for the transportation costs or would result in a physical hardship for the eligible transportee, a parent or guardian may request an increase in the reimbursement rate. A request for increased rates because of isolation must be made by the parent or guardian on the contract for individual transportation for the ensuing school fiscal year by indicating the special facts and circumstances that exist to justify the increase. Before an increased rate because of isolation may be paid to the requesting parent or guardian, the rate must be approved by the county transportation committee and the superintendent of public instruction after the trustees have indicated their approval or disapproval. Regardless of the action of the trustees and when approval is given by the committee and the superintendent of public instruction, the trustees shall pay the increased rate because of isolation. The increased rate is 1 ½ times the rate prescribed in subsection (1).

(4) The state and county transportation reimbursement for an individual transportation contract may not exceed $9.25 for each day of attendance for the first eligible transportee and $6 for each day of attendance for each additional eligible transportee.

(5) When the isolated conditions of the household where an eligible transportee resides require an eligible transportee to live away from the household in order to attend school, the eligible transportee is eligible for the room and board reimbursement. Approval to receive the room and board reimbursement must be obtained in the same manner prescribed in subsection (3). The per diem rate for room and board is $9.25 for one eligible transportee and $6 for each additional eligible transportee of the same household.

(6) When the individual transportation provision is to be satisfied by supervised home study or supervised correspondence study, the reimbursement rate is the cost of the study, provided that the course of instruction is approved by the trustees and supervised by the district.

20-10-142. *(Effective July 1, 2006)* **Schedule of maximum reimbursement for individual transportation.** The following rates for individual transportation constitute the maximum reimbursement to districts for individual transportation from state and county sources of transportation revenue under the provisions of 20-10-145 and 20-10-146. These rates constitute the limitation of the budgeted amounts for individual transportation for the ensuing school fiscal year. The schedules provided in this section may not be altered by any authority other than the legislature. When the trustees contract with the parent or guardian of any eligible transportee to provide individual transportation for each day of school attendance, they shall reimburse the parent or guardian for actual miles transported on the basis of the following schedule:

(1) When a parent or guardian transports an eligible transportee or transportees from the residence of the parent or guardian to a school or to schools located within 3 miles of one another, the total reimbursement for each day of attendance is determined by multiplying the distance in miles between the residence and the school, or the most distant school if more than one, by 2, subtracting 6 miles from the product, and multiplying the difference by 35 cents, provided that:

(a) if two or more eligible transportees are transported by a parent or guardian to two or more schools located within 3 miles of one another and if the schools are operated by different school districts, the total amount of the reimbursement must be divided equally between the districts;

(b) if two or more eligible transportees are transported by a parent or guardian to two or more schools located more than 3 miles from one another, the parent or guardian must be separately reimbursed for transporting the eligible transportee or transportees to each school;

(c) if a parent transports two or more eligible transportees to a school and a bus stop that are located within 3 miles of one another, the total reimbursement must be determined under the

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provisions of this subsection (1) and must be divided equally between the district operating the school and the district operating the bus;

(d) if a parent transporting two or more eligible transportees to a school or bus stop must, because of varying arrival and departure times, make more than one round-trip journey to the bus stop or school, the total reimbursement allowed by this section is limited to one round trip a day for each scheduled arrival or departure time;

(e) notwithstanding subsection (1)(a), (1)(b), (1)(c), or (1)(d), a reimbursement may not be less than 35 cents a day.

(2) When the parent or guardian transports an eligible transportee or transportees from the residence to a bus stop of a bus route approved by the trustees for the transportation of the transportee or transportees, the total reimbursement for each day of attendance is determined by multiplying the distance in miles between the residence and the bus stop by 2, subtracting 6 miles from the product, and multiplying the difference by 35 cents, provided that:

(a) if the eligible transportees attend schools in different districts but ride on one bus, the districts shall divide the total reimbursement equally; and

(b) if the parent or guardian is required to transport the eligible transportees to more than one bus, the parent or guardian must be separately reimbursed for transportation to each bus.

(3) When, because of excessive distances, impassable roads, or other special circumstances of isolation, the rates prescribed in subsection (1) or (2) would be an inadequate reimbursement for the transportation costs or would result in a physical hardship for the eligible transportee, a parent or guardian may request an increase in the reimbursement rate. A request for increased rates because of isolation must be made by the parent or guardian on the contract for individual transportation for the ensuing school fiscal year by indicating the special facts and circumstances that exist to justify the increase. Before an increased rate because of isolation may be paid to the requesting parent or guardian, the rate must be approved by the county transportation committee and the superintendent of public instruction after the trustees have indicated their approval or disapproval. Regardless of the action of the trustees and when approval is given by the committee and the superintendent of public instruction, the trustees shall pay the increased rate because of isolation. The increased rate is 1 ½ times the rate prescribed in subsection (1).

(4) The state and county transportation reimbursement for an individual transportation contract may not exceed $12.95 for each day of attendance for the first eligible transportee and $8.40 for each day of attendance for each additional eligible transportee.

(5) When the isolated conditions of the household where an eligible transportee resides require an eligible transportee to live away from the household in order to attend school, the eligible transportee is eligible for the room and board reimbursement. Approval to receive the room and board reimbursement must be obtained in the same manner prescribed in subsection (3). The per diem rate for room and board is $12.95 for one eligible transportee and $8.40 for each additional eligible transportee of the same household.

(6) When the individual transportation provision is to be satisfied by supervised home study or supervised correspondence study, the reimbursement rate is the cost of the study, provided that the course of instruction is approved by the trustees and supervised by the district.

History: En. 75-7019 by Sec. 296, Ch. 5, L. 1971; amd. Sec. 1, Ch. 169, L. 1973; amd. Sec. 3, Ch. 416, L. 1973; amd. Sec. 1, Ch. 470, L. 1975; amd. Sec. 1, Ch. 534, L. 1977; R.C.M. 1947, 75-7019; amd. Sec. 2, Ch. 590, L. 1979; amd. Sec. 2, Ch. 454, L. 1981; amd. Sec. 11, Ch. 711, L. 1991; amd. Sec. 2, Ch. 359, L. 1993; amd. Sec. 7, Ch. 298, L. 1995; amd. Sec. 2, Ch. 409, L. 2001; amd. Sec. 11, Ch. 4, Sp. L. December 2005.

Compiler's Comments

2005 Special Session Amendment: Chapter 4 in (1), (1)(e), and (2) increased rate from 25 cents to 35 cents; and in (4) and in third sentence in (5) increased contract amount from $9.25 to $12.95 for first eligible transportee and from $6 to $8.40 for additional transportees. Amendment effective July 1, 2006.

Effective Date — Applicability: Section 15, Ch. 4, Sp. L. December 2005, provided: "[This act] is effective July 1, 2006, and applies to school budgets for school fiscal years beginning on or after July 1, 2006."

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RULES OF APPELLATE PROCEDURE
(TITLE 25, CH. 21)

Rule 17. Acceptance and manner of conducting.

(a) When accepted. The supreme court is an appellate court but it is empowered by the constitution of Montana to hear and determine such original and remedial writs as may be necessary or proper to the complete exercise of its jurisdiction. The institution of such original proceedings in the supreme court is sometimes justified by circumstances of an emergency nature, as when a cause of action or a right has arisen under conditions making due consideration in the trial courts and due appeal to this court an inadequate remedy, or when supervision of a trial court other than by appeal is deemed necessary or proper.

(b) How commenced and conducted. Proceedings commenced in the supreme court originally to obtain writs of habeas corpus, injunction, review, mandate, quo warranto, supervisory control, and other remedial writs or orders, shall be commenced and conducted in the manner prescribed by the applicable sections of the Montana Code Annotated for the conduct of such or analogous proceedings and by these additional rules. All papers filed shall conform to the requirements of Rule 27 except that neither the application for writ nor any response thereto shall exceed 7000 words if proportionally spaced or 20 pages if prepared in monospaced typeface or if typewritten.

(c) Notice to district judge. An application for a writ or order and all further documents relating to a ruling of a district court must be served upon the district judge against whose ruling it is directed. Such application shall, in its title, contain the name of the district judge and the judicial district from which the ruling was issued.

(d) Applications — where and when filed. An original application may be made to the supreme court at any time. The moving party's application and all supporting documents shall be filed with the clerk of the supreme court.

(e) Applications — what to contain. The application for the issuance of the above writs or orders must set forth, in summary fashion and in addition to the other requisite matters, the particular questions and issues anticipated or expected to be raised in the proceeding and also the fact which renders it necessary and proper that the writ should issue originally from the supreme court; the said matters will be taken into consideration by the court in determining the necessity and propriety of accepting jurisdiction and granting the alternative writ or order to show cause. Each application shall also set forth as exhibits, without repetition of title of court and cause, a copy of each judgment, order, notice, pleading, document proceeding or court minute referred to in the application, or which is necessary to make out a prima facie case or to substantiate the pleading or conclusion or legal effect and shall summarize the authorities for accepting jurisdiction and shall summarize the authorities pertaining to the merits of the particular questions and issues anticipated or expected to be raised. No separate memorandum of law or brief shall be filed with the application. Counsel shall file with the clerk of this court the original court file, unless for some reason the same is not available. In any proceeding regarding the abuse and neglect of a child or for the termination of parental rights under Title 41, Chapter 3, MCA, or in any proceeding under Title 40, Chapter 6 (Uniform Parentage Act); Title 42 (Adoption); Title 52, Chapter 3, part 8 (Montana Elder and Persons With Developmental Disabilities Abuse Prevention Act); Title 53, Chapter 20 (Developmental Disabilities), Chapter 21 (Mentally Ill), and Chapter 24 (Alcoholism and Drug Dependence), only the initials of the child, parent(s) or individual party(ies), as the case may be, may be used.

(f) Procedure. Upon the filing of the application the court may order that a summary response be filed immediately or, at the court's next conference and on the basis of the application filed, the court may dismiss the application without ordering a response or it may order a summary response to the application at that time. If a summary response is ordered, the court shall consider the application and response at the court's next conference following the filing of the response. Thereafter, the court shall, as promptly as possible, dismiss the application, accept jurisdiction, order more extensive briefing on any issue, matter or question raised in the application or response, order oral argument in extraordinary cases, or issue any other writ or order deemed appropriate in the circumstances. On application and for good cause shown or on its own motion the court may order a stay of further proceedings in an inferior

tribunal pending the court's disposition of the application. If a summary response is ordered, such response shall summarize the authorities for rejecting jurisdiction and shall summarize the authorities pertaining to the merits of the particular questions and issues anticipated or expected to be raised. No separate memorandum of law or brief shall be filed with the response.

(g) Oral argument. When ordered by this court, an adversary hearing on the application shall be held at the time fixed by the order. The oral argument shall be conducted in the same manner as in the argument of appeals, with the same time limits for presentation, and with the applicant opening and closing the argument.

(h) Briefs. In those cases in which more extensive briefing is ordered, each party shall, unless otherwise ordered, serve and file briefs in full conformance with Rules 20, 23, and 27, and containing a statement of the facts and of the points of law applicable, with the authorities relied upon.

All briefs shall be served and filed according to the time schedule set forth in the order.

(i) A signed original and nine copies of all petitions for extraordinary writ or other original proceeding and all response thereto shall be filed.

(j) For cases docketed in the office of the Clerk of the Supreme Court on and after January 2, 2006, an issue form, as set out in Form 3 to the Appendix of Forms, must be completed by counsel or the party, if pro se, and filed with the Clerk of the Supreme Court. Only appellants, cross-appellants, petitioners and cross-petitioners must file this form with their opening briefs or petitions. Persons filing briefs or petitions who fail to include the issue form with their briefs or petitions, will be mailed a copy of the form by the Clerk's office and are required complete and file the form within 5 working days following the date of filing. Failure to file the form may result in sanctions, including dismissal of the appeal or petition.

History: En. Sup. Ct. Ord. 11020, Dec. 10, 1965, eff. Jan. 1, 1966; amd. Sup. Ct. Ord. 10750-10, Oct. 22, 1971, eff. Jan. 1, 1972; amd. Sup. Ct. Ord., eff. Jan. 1, 1981; amd. Sup. Ct. Ord., eff. Feb. 1, 1992; amd. Sup. Ct. Ord., eff. June 23, 1997; amd. Sup. Ct. Ord. June 14, 1999, eff. Aug. 15, 1999; amd. Sup. Ct. Ord. Feb. 7, 2002, eff. Mar. 15, 2002; amd. Sup. Ct. Ord. Dec. 17, 2002, eff. Feb. 1, 2003; amd. Sup. Ct. Ord. Nov. 2, 2005, eff. Jan. 1, 2006.

Compiler's Comments

2005 Amendment: Inserted (j) concerning requirement for filing issue forms. Amendment effective January 1, 2006.

NOTE: The above amendment was not included in the 2005 MCA.

Rule 23. Briefs.

(a) Brief of the appellant. The brief of the appellant shall contain under appropriate headings and in the order here indicated:

(1) A table of contents, with page references, and a table of cases (alphabetically arranged), statutes and other authorities cited, with references to the pages of the brief where they are cited.

(2) A statement of the issues presented for review.

(3) A statement of the case. The statement shall first indicate briefly the nature of the case and its disposition in the court below, e.g.: "The plaintiff brought this action in the district court to recover damages for the wrongful death of the plaintiff's husband. The jury returned a verdict for the plaintiff. On motion of the defendant the trial judge entered judgment for the defendant n. o. v. on the ground that there was no evidence to support a finding of negligence on the part of the defendant. From this judgment the plaintiff appeals."

There shall follow a statement of the facts relevant to the issues presented for review, with references to the pages of the parts of the record at which material facts appear (see subdivision (e)).

(4) An argument. The argument shall be preceded by a summary. The summary shall contain a succinct, clear, and accurate statement of the arguments made in the body of the brief and not be a mere repetition of the argument headings. The argument shall contain the contentions of the appellant with respect to the issues presented, and the reasons therefor, with citations to the authorities, statutes and pages of the record relied on.

(5) A short conclusion stating the precise relief sought.

(6) The judgment, order, findings of fact, conclusions of law, or decision in question, together with the memorandum opinion, if any, in support thereof. If an appendix is filed pursuant to Rule 25, the foregoing may be included therein.

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(7) Notice of Supplemental Authorities. When pertinent and significant authorities come to the attention of a party after the party's brief has been filed, or after oral argument but before decision, a party may promptly advise the clerk of court, by "Notice of Supplemental Authority," with a copy to all counsel, setting forth the citation(s) without argument. The notice shall reference either the page of the brief or the point argued orally to which the citation(s) pertain.

(b) Answer brief of the respondent. The answer brief of the respondent shall conform to the requirements of subdivision (a) (1) to (4), except that a statement of the issues or of the case need not be made unless the respondent is dissatisfied with the statement of the appellant.

(c) Reply brief. The appellant may file a brief in reply to the brief of the respondent, and if the respondent has cross appealed, the respondent may file a brief in reply to the response of the appellant to the issues presented by the cross appeal. The reply brief must be confined to new matter raised in the brief of the respondent. No further briefs may be filed except with leave of court.

(d) References in briefs to parties. Counsel will be expected in their briefs and oral arguments to keep to a minimum references to parties by such formal designations as "appellant" and "respondent." It promotes clarity to use names or descriptive terms such as "the employee," "the injured person," "the taxpayer," etc. In any proceeding regarding the abuse and neglect of a child or for the termination of parental rights under Title 41, Chapter 3, MCA, or in any proceeding under Title 40, Chapter 6 (Uniform Parentage Act); Title 42 (Adoption); Title 52, Chapter 3, part 8 (Montana Elder and Persons With Developmental Disabilities Abuse Prevention Act); Title 53, Chapter 20 (Developmental Disabilities), Chapter 21 (Mentally Ill), and Chapter 24 (Alcoholism and Drug Dependence), only the initials of the child, parent(s) or individual party(ies), as the case may be, may be used.

(e) References in briefs to the record. Whenever a reference is made in the briefs to the record, the reference must be to particular parts of the record, suitably designated, and to specific pages of each part, e. g., Answer, p. 7; Motion for Summary Judgment, p. 3; Transcript, p. 231. Intelligible abbreviations may be used. If reference is made to an exhibit, reference shall be made to the pages of the transcript on which the exhibit was identified, offered, and received or rejected.

(f) Reproduction of statutes, rules, regulations, etc. If determination of the issues presented requires the study of statutes, rules, regulations, etc., or relevant parts thereof, they may be reproduced in the brief or in an addendum at the end, or they may be supplied to the court in pamphlet form. No such reproduction is required, unless ordered by the supreme court. When the error alleged is to the charge of the court, the brief of the parties shall set out with appropriate transcript references the part referred to totidem verbis, whether it be directed to instructions given or instructions refused.

(g) Overlength and supplemental briefs and costs.

(i) Motions to file overlength and supplemental briefs will not be routinely granted except in capital cases. Motions to file such briefs in other cases must be supported by an affidavit demonstrating extraordinary justification.

(ii) For purposes of assessing costs in civil cases under section 25-10-104, Montana Code Annotated, reasonable costs shall be determined as follows: Costs will be allowed for the actual cost per page for up to 9 copies of each brief plus 2 copies for each party to be served, unless the court shall direct a greater number of briefs to be filed. In taxing costs for printing or photographing documents, the clerk shall tax costs at a rate not to exceed .20 cents per page or at actual cost, whichever shall be less. If a cross appeal is filed, the appellant will bear the original costs of the transcript.

(h) Briefs in cases involving cross-appeals. If a cross-appeal is filed, the party who first files a notice of appeal, or in the event that the notices are filed on the same day, the plaintiff in the proceeding below, shall be deemed the appellant for the purposes of this rule and Rules 25 and 26, unless the parties otherwise agree or the court otherwise orders. The brief of the respondent shall conform to the requirements of subdivision (a)(1) - (6) of this rule with respect to the respondent's cross-appeal as well as respond to the brief of the appellant except that a statement of the case need not be made unless the respondent is dissatisfied with the statement of the appellant.

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(i) Disc copy of briefs. There shall be included with original briefs filed under this Rule and under Rule 17, one copy of the brief saved to either a 3 ½ floppy disc or to a CD. This rule shall not apply to hand-written briefs or to those typed on a typewriter. Failure to include the disc or CD with the original brief shall not be grounds for dismissal or for refusal to file the brief.

(j) For cases docketed in the office of the Clerk of the Supreme Court on and after January 2, 2006, an issue form, as set out in Form 3 to the Appendix of Forms, must be completed by counsel or the party, if pro se, and filed with the Clerk of the Supreme Court. Only appellants, cross-appellants, petitioners and cross-petitioners must file this form with their opening briefs or petitions. Persons filing briefs or petitions who fail to include the issue form with their briefs or petitions, will be mailed a copy of the form by the Clerk's office and are required complete and file the form within 5 working days following the date of filing. Failure to file the form may result in sanctions, including dismissal of the appeal or petition.

History: En. Sup. Ct. Ord. 11020, Dec. 10, 1965, eff. Jan. 1, 1966; amd. Sup. Ct. Ord. 10750-10, Oct. 22, 1971, eff. Jan. 1, 1972; amd. Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987; amd. Sup. Ct. Ord. May 1, 1990, eff. May 1, 1990; amd. Sup. Ct. Ord. Mar. 26, 1993; amd. Sup. Ct. Ord. Feb. 13, 1997, eff. Mar. 21, 1997; amd. Sup. Ct. Ord. June 9, 1998, eff. June 9, 1998; amd. Sup. Ct. Ord. Sept. 1, 1998, eff. Dec. 1, 1998; amd. Sup. Ct. Ord. July 24, 2001, eff. July 24, 2001; amd. Sup. Ct. Ord. Feb. 7, 2002, eff. Mar. 15, 2002; amd. Sup. Ct. Ord. Dec. 17, 2002, eff. Feb. 1, 2003; amd. Sup. Ct. Ord. Mar. 11, 2003, eff. April 1, 2003; amd. Sup. Ct. Ord. Nov. 2, 2005, eff. Jan. 1, 2006.

Compiler's Comments

2005 Amendment: Inserted (j) concerning requirement for filing issue forms. Amendment effective January 1, 2006.

NOTE: The above amendment was not included in the 2005 MCA.

MONTANA JUSTICE AND CITY COURT RULES OF CIVIL PROCEDURE (TITLE 25, CH. 23)

Rule 22. Relief from judgment. A. RELIEF. A judge may, on such terms as may be just and on the payment of costs, relieve a party from any judgment or other order taken against the party by mistake, inadvertence, surprise, or excusable neglect, but the application for relief must be made within 30 days after entry of the judgment and upon an affidavit showing good cause for it. The party applying for relief shall serve the application and give notice of hearing to all other parties. The court shall set a hearing within 10 days after receipt of the application.

B. CLERICAL MISTAKES. Clerical mistakes or errors arising from oversight or omission in pleadings, judgments, orders, and other parts of the record may be corrected by the court at any time on its own initiative or on the motion of any party and after any notice the court may order.

History: En. Sup. Ct. Ord. February 9, 1990, eff. June 1, 1990; amd. Sup. Ct. Ord. June 24, 1997, eff. Oct. 1, 1997.

NOTE: A 1997 amendment that inserted the words "or other order" in the first sentence of paragraph A. was omitted in the 2005 MCA.

30-14-2003. Definitions. As used in this part, the following definitions apply:

(1) "Consumer" means an individual who, singly or jointly with another individual, owes money to one or more creditors for personal, family, or household purposes.

(2) "Credit counseling service" means a person that provides or offers to provide debt management plan services to consumers for consideration.

(3) "Credit counselor" means a person who is an employee or agent of a credit counseling service and who designs debt management plans and provides consumers with budget, basic financial planning, and consumer education services.

(4) "Debt management plan" means a written agreement under which a credit counseling service is to receive money from a consumer for the purpose of distributing that money to one or more creditors of the consumer as full or partial payment of the consumer's obligation to the creditor or creditors.

(5) "Department" means the department of justice provided for in 2-15-2001.

(6) "Person" means an individual, sole proprietorship, firm, partnership, corporation, limited liability partnership or company, or other entity and includes a nonprofit organization exempt from taxation under 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3).

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(7) "Trust account" means an account:

(a) established by a credit counseling service in a federally insured financial institution;

(b) designated as a trust account or other appropriate designation indicating that the funds in the account are not funds of the credit counseling service or its directors, officers, employees, or agents;

(c) used exclusively for funds paid by consumers to the credit counseling service for disbursement to creditors of the consumers; and

(d) that is unavailable to creditors of the credit counseling service.

History: En. Sec. 3, Ch. 272, L. 2005; amd. Sec. 30, Ch. 280, L. 2005.

NOTE: In (5) "justice" and "2-15-2001" replaced previous erroneous references in the 2005 MCA.

61-3-321. Registration fees of vehicles and vessels — certain vehicles exempt from registration fees — disposition of fees. (1) Except as otherwise provided in this section, registration fees must be paid upon registration or, if applicable, renewal of registration of motor vehicles, snowmobiles, watercraft, trailers, semitrailers, and pole trailers as provided in subsections (2) through (18):

(2) (a) Except as provided in subsection (2)(b), there is a registration fee imposed on light vehicles. The registration fee is in addition to other annual registration fees.

(b) The following vehicles are exempt from the registration fee imposed in this subsection (2):

(i) light vehicles that meet the description of property exempt from taxation under 15-6-201(1)(a), (1)(c), (1)(d), (1)(e), (1)(f), (1)(g), (1)(i), (1)(j), (1)(l), or (1)(m), 15-6-203, or 15-6-215, except as provided in 61-3-520;

(ii) a light vehicle owned by a person eligible for a waiver of registration fees under 61-3-460;

(iii) a light vehicle registered under 61-3-456.

(c) The owner of a light vehicle subject to the provisions of 61-3-313 through 61-3-316 may register the light vehicle for a period not to exceed 24 months. The application for registration or reregistration must be accompanied by the registration fee and all other fees required in this chapter for each 12-month period of the 24-month period.

(d) The annual registration fee for light vehicles, trucks and buses under 1 ton, and logging trucks less than 1 ton is as follows:

(i) if the vehicle is 4 or less years old, $217;

(ii) if the vehicle is 5 through 10 years old, $87; and

(iii) if the vehicle is 11 or more years old, $28;

(e) The owner of a light vehicle 11 years old or older may permanently register the light vehicle as provided in 61-3-562.

(3) (a) Except as provided in subsection (3)(c), the owner of a trailer, semitrailer, or pole trailer that has a declared weight of less than 6,000 pounds shall pay a one-time fee of $61.25.

(b) The owner of a trailer, semitrailer, or pole trailer with a declared weight of 6,000 pounds or more shall pay a one-time fee of $148.25.

(c) Except as provided in subsection (17), whenever a transfer of ownership of a trailer, semitrailer, or pole trailer described in subsection (3)(a) or (3)(b) occurs, the one-time fee required under subsection (3)(a) or (3)(b) must be paid by the new owner.

(4) The annual registration fee for motor vehicles owned and operated solely as collector's items pursuant to 61-3-411 that are for motor vehicles:

(a) 2,850 pounds and over, $10; and

(b) under 2,850 pounds, $5.

(5) (a) The registration fee for off-highway vehicles is $61.25. This fee is a one-time fee, except upon transfer of ownership of an off-highway vehicle. Except as provided in subsection (17), whenever a transfer of ownership of an off-highway vehicle occurs, the one-time fee required under this subsection must be paid by the new owner.

(b) The application for registration for an off-highway vehicle must be made to the county treasurer of the county in which the owner resides, on a form furnished by the department for that purpose. The application must contain:

(i) the name and home mailing address of the owner;

(ii) the certificate of title number;

(iii) the name of the manufacturer of the off-highway vehicle;
(iv) the model number or name;
(v) the year of manufacture;
(vi) a statement evidencing payment of the fee in lieu of property tax; and
(vii) other information that the department may require.

(c) If the off-highway vehicle was previously registered, the application must be accompanied by the registration certificate for the most recent year in which it was registered. Upon payment of the registration fee, the county treasurer shall sign the application and issue a registration receipt containing the information considered necessary by the department. The owner shall retain possession of the registration receipt until it is surrendered to the county treasurer or to a purchaser or subsequent owner pursuant to a transfer of ownership.

(6) The annual registration fee for heavy trucks, buses, and logging trucks in excess of 1 ton is $22.75.

(7) (a) The owner of a motor home shall pay an annual fee based on the age of the motor home according to the following schedule:
(i) less than 2 years old, $282.50;
(ii) 2 years old and less than 5 years old, $224.25;
(iii) 5 years old and less than 8 years old, $132.50; and
(iv) 8 years old and older, $97.50.

(b) (i) Except as provided in subsection (7)(b)(ii), the age of a motor home is determined by subtracting the manufacturer's designated model year from the current calendar year.

(ii) If the purchase year of a motor home precedes the designated model year of the motor home and the motor home is originally titled in Montana, then the purchase year is considered the model year for the purposes of calculating the fee in lieu of tax.

(c) (i) The owner of a motor home 11 years old or older subject to the registration fee under subsection (7)(a) may permanently register the motor home upon payment of:
(A) a fee of $237.50; and
(B) if applicable, five times the personalized license plate fees under 61-3-406.

(ii) The following series of license plates may not be used for purposes of permanent registration of a motor home:
(A) Montana national guard license plates issued under 61-3-458(2)(b);
(B) reserve armed forces license plates issued under 61-3-458(2)(c);
(C) license plates bearing a wheelchair design as a symbol of a person with a disability issued under 61-3-332(9);
(D) amateur radio operator license plates issued under 61-3-422;
(E) collegiate license plates issued under 61-3-465; and
(F) generic specialty license plates issued under 61-3-479.

(iii) Except as provided in subsection (17), whenever a transfer of ownership of a permanently registered motor home occurs, the applicable fees required under this subsection (7) must be paid by the new owner.

(8) (a) The registration fee for motorcycles and quadricycles registered for use on public highways is $53.25, and the registration fee for motorcycles and quadricycles registered for both off-road use and for use on the public highways is $114.50.

(b) An additional fee of $5 for a motorcycle or quadricycle with special license plates issued under 61-3-415 and, for a motorcycle or quadricycle under one-time registration, an additional fee of $16 must be collected for the registration of each motorcycle or quadricycle as a safety fee, which must be deposited in the state motorcycle safety account provided for in 20-25-1002.

(c) The registration fees in this subsection (8) are a one-time fee, except upon transfer of ownership of a motorcycle or quadricycle.

(9) (a) The registration fee for travel trailers under 16 feet in length is $72 and the registration fee for travel trailers 16 feet in length or longer is $152. This fee is a one-time fee, except upon transfer of ownership of a travel trailer.

(b) Except as provided in subsection (17), whenever a transfer of ownership of a travel trailer occurs, the one-time fee required under subsection (9)(a) must be paid by the new owner.

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(10) (a) The owner of each motorboat, sailboat, personal watercraft, or motorized pontoon requiring numbering by this state shall file an application for number in the office of the county treasurer in the county where the motorboat, sailboat, personal watercraft, or motorized pontoon is owned, on forms prepared and furnished by the department. The application must be signed by the owner of the motorboat, sailboat, personal watercraft, or motorized pontoon and be accompanied by the appropriate registration fee. The owner of a motorboat, sailboat, personal watercraft, or motorized pontoon shall pay a one-time fee as follows:

(i) for a personal watercraft or a motorboat, sailboat, or motorized pontoon less than 16 feet in length, $65.50;

(ii) for a motorboat, sailboat, or motorized pontoon at least 16 feet in length but less than 19 feet in length, $125.50; and

(iii) for a motorboat, sailboat, or motorized pontoon 19 feet in length or longer, $295.50.

(b) This fee is a one-time fee, except upon transfer of ownership of the motorboat, sailboat, personal watercraft, or motorized pontoon.

(11) (a) Except as provided in subsection (11)(b), the one-time registration fee for a snowmobile is $60.50.

(b) If a snowmobile is licensed by a Montana business and is owned exclusively for the purpose of daily rental to customers, the business is assessed:

(i) a fee of $40.50 in the first year of registration; and

(ii) if the business reregisters the snowmobile for a second year, a fee of $20. If the business reregisters the snowmobile for a third year, the snowmobile must be permanently registered and the business is assessed the fee in lieu of tax imposed in subsection (11)(a).

(c) Except as provided in subsection (17), whenever a transfer of ownership of a snowmobile occurs, the applicable fee required under this subsection (11) must be paid by the new owner.

(12) A fee of $5 must be collected when a new set of standard license plates or a new single standard license plate provided for under 61-3-332 is issued.

(13) The provisions of this part with respect to the payment of registration fees do not apply to and are not binding upon motor vehicles, trailers, semitrailers, snowmobiles, watercraft, or tractors owned or controlled by the United States of America or any state, county, city, or special district, as defined in 18-8-202.

(14) When the license plates for a registered motor vehicle are transferred to a replacement vehicle under 61-3-317, 61-3-332, or 61-3-335, the owner of the motor vehicle shall pay a registration fee as follows:

(a) heavy trucks, buses, and logging trucks in excess of 1 ton, 75 cents;

(b) light vehicles, trucks and buses under 1 ton, and logging trucks less than 1 ton:

(i) if the vehicle is 4 years old or less, $195.75;

(ii) if the vehicle is 5 years old through 10 years old, $65.75; and

(iii) if the vehicle is 11 years old or older, $6.75;

(c) motor homes:

(i) less than 2 years old, $250.50;

(ii) 2 years old and less than 5 years old, $192.25;

(iii) 5 years old and less than 8 years old, $100.50; and

(iv) 8 years old and older, $65.50;

(d) motorcycles and quadricycles registered for use on the public highways, $42, and motorcycles and quadricycles registered for both off-road use and for use on the public highways, $103.25. This fee is a one-time fee, except upon transfer of ownership.

(e) travel trailers under 16 feet in length, $50.50, and travel trailers 16 feet in length or longer, $130.50. This fee is a one-time fee, except upon transfer of ownership.

(f) trailers, semitrailers, or pole trailers with a declared weight of less than 6,000 pounds, $52. This fee is a one-time fee, except upon transfer of ownership.

(g) trailers, semitrailers, or pole trailers with a declared weight of 6,000 pounds or more, $139. This fee is a one-time fee, except upon transfer of ownership.

(15) A person eligible for a waiver under 61-3-460 is exempt from the fees required under this section.

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(16) Except as otherwise provided in this section, revenue collected under this section must be deposited in the state general fund.

(17) The fees imposed by subsections (2) through (11) are not required to be paid by a dealer for the enumerated vehicles or vessels that constitute inventory of the dealership.

(18) (a) Unless a person exercises the option in subsection (18)(b), an additional fee of $4 must be collected for each light vehicle registered for licensing pursuant to this part. This fee must be accounted for and transmitted separately from the registration fee. The fee must be deposited in an account in the state special revenue fund to be used for state parks, for fishing access sites, and for the operation of state-owned facilities. Of the $4 fee, the department shall use $3.50 for state parks, 25 cents for fishing access sites, and 25 cents for the operation of state-owned facilities at Virginia City and Nevada City.

(b) A person who registers a light vehicle may, at the time of annual registration, certify that the person does not intend to use the vehicle to visit state parks and fishing access sites and may make a written election not to pay the additional $4 fee provided for in subsection (18)(a). If a written election is made, the fee may not be collected.

(19) For each light vehicle, trailer, semitrailer, pole trailer, heavy truck, motor home, motorcycle, quadricycle, and travel trailer subject to a registration fee under this section, an additional fee of $5 must be collected and forwarded to the state for deposit in the account established in 44-1-504.

(20) This section does not apply to a motor vehicle, trailer, semitrailer, or pole trailer that is governed by 61-3-721.

History: (1) thru (4), (6), (7)En. Sec. 6, Ch. 75, L. 1917; amd. Sec. 2, Ch. 207, L. 1919; amd. Sec. 1, Ch. 199, L. 1921; re-en. Sec. 1760, R.C.M. 1921; amd. Sec. 1, Ch. 107, L. 1923; amd. Sec. 1, Ch. 88, L. 1927; amd. Sec. 1, Ch. 182, L. 1929; amd. Sec. 1, Ch. 103, L. 1933; amd. Sec. 1, Ch. 38, Ex. L. 1933; re-en. Sec. 1760, R.C.M. 1935; amd. Sec. 1, Ch. 138, L. 1937; amd. Sec. 1, Ch. 125, L. 1939; amd. Sec. 2, Ch. 154, L. 1943; amd. Sec. 2, Ch. 200, L. 1945; amd. Sec. 1, Ch. 201, L. 1945; amd. Sec. 1, Ch. 221, L. 1951; amd. Sec. 1, Ch. 215, L. 1953; amd. Sec. 1, Ch. 41, L. 1955; amd. Sec. 228, Ch. 147, L. 1963; amd. Sec. 1, Ch. 178, L. 1963; amd. Sec. 30, Ch. 121, L. 1965; amd. Sec. 12-105, Ch. 197, L. 1965; amd. Sec. 4, Ch. 226, L. 1971; amd. Sec. 2, Ch. 243, L. 1977; Sec. 53-122, R.C.M. 1947; (5)En. Sec. 3, Ch. 75, L. 1917; re-en. Sec. 1757, R.C.M. 1921; amd. Sec. 2, Ch. 158, L. 1933; re-en. Sec. 1757, R.C.M. 1935; amd. Sec. 1, Ch. 6, L. 1941; amd. Sec. 3, Ch. 88, L. 1943; amd. Sec. 1, Ch. 111, L. 1951; amd. Sec. 1, Ch. 29, L. 1953; amd. Sec. 1, Ch. 245, L. 1955; amd. Sec. 1, Ch. 236, L. 1957; amd. Sec. 1, Ch. 245, L. 1959; amd. Sec. 1, Ch. 245, L. 1965; amd. Sec. 1, Ch. 41, L. 1967; amd. Sec. 5, Ch. 127, L. 1969; amd. Sec. 1, Ch. 226, L. 1971; amd. Sec. 1, Ch. 41, L. 1975; amd. Sec. 1, Ch. 390, L. 1975; amd. Sec. 1, Ch. 243, L. 1977; amd. Sec. 3, Ch. 492, L. 1977; Sec. 53-106, R.C.M. 1947; R.C.M. 1947, 53-106(part), 53-122(part); amd. Sec. 33, Ch. 421, L. 1979; amd. Sec. 7, Ch. 508, L. 1979; amd. Sec. 2, Ch. 654, L. 1979; amd. Sec. 1, Ch. 277, L. 1983; amd. Sec. 18, Ch. 516, L. 1985; amd. Sec. 4, Ch. 378, L. 1987; amd. Sec. 10, Ch. 398, L. 1989; amd. Sec. 8, Ch. 535, L. 1989; amd. Sec. 2, Ch. 627, L. 1989; amd. Sec. 2, Ch. 654, L. 1989; amd. Secs. 3, 5, Ch. 567, L. 1991; amd. Sec. 2, Ch. 735, L. 1991; amd. Sec. 7, Ch. 575, L. 1993; amd. Sec. 1, Ch. 81, L. 1995; amd. Sec. 4, Ch. 88, L. 1995; amd. Sec. 1, Ch. 72, L. 1997; amd. Sec. 37, Ch. 532, L. 1997; amd. Sec. 1, Ch. 79, L. 1999; amd. Sec. 25, Ch. 257, L. 2001; amd. Sec. 163, Ch. 574, L. 2001; amd. Sec. 18, Ch. 13, Sp. L. August 2002; amd. Sec. 2, Ch. 280, L. 2003; amd. Sec. 11, Ch. 399, L. 2003; amd. Sec. 13, Ch. 491, L. 2003; amd. Sec. 33, Ch. 592, L. 2003; amd. Sec. 3, Ch. 601, L. 2003; amd. Secs. 3, 9, Ch. 421, L. 2005; amd. Secs. 4, 8, Ch. 500, L. 2005; amd. Sec. 76, Ch. 542, L. 2005; amd. Secs. 58, 150, Ch. 596, L. 2005.

Compiler's Comments

2005 Amendments — Composite Section — Coordination — Code Commissioner Correction: Chapters 421 and 596 inserted (19) imposing additional registration fee on certain vehicles to fund salaries and salary increases for highway patrol officers. Amendment effective January 1, 2006.

Pursuant to sec. 9, Ch. 421, L. 2005, a coordination section, in (19) after "(1)" inserted exception clause.

Pursuant to sec. 150, Ch. 596, L. 2005, a coordination section, the amendment made by sec. 9, Ch. 421, L. 2005, was rendered void.

Section 76, Ch. 542, substituted current text establishing registration fees for motor vehicles, snowmobiles, watercraft, trailers, semitrailers, and pole trailers for former text that read: "(1) Except as otherwise provided in this section, registration fees must be paid upon registration or, if applicable, reregistration of motor vehicles, trailers, and semitrailers, in accordance with this chapter, as follows:

(a) light vehicles under 2,850 pounds, $13.75 in calendar year 2004 and, in each subsequent year, $17;

(b) trailers with a declared weight of less than 2,500 pounds and semitrailers, $8.25. For a trailer or semitrailer described in 61-3-530(1), this fee is a one-time fee, except upon transfer of ownership of the trailer or semitrailer.

(c) motor vehicles registered pursuant to 61-3-411 that are:

(i) 2,850 pounds and over, $10; and

(ii) under 2,850 pounds, $5;

(d) off-highway vehicles registered pursuant to 23-2-817, $9 in calendar year 2004 and, in each subsequent year, $19.25. This fee is a one-time fee, except upon transfer of ownership of an off-highway vehicle.

(e) light vehicles over 2,850 pounds, trucks and buses less than 1 ton, and heavy trucks in excess of 1 ton, $18.75 in calendar year 2004 and, in each subsequent year, $22;

(f) logging trucks less than 1 ton, $23.75;

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(g) motor homes, $22.25;

(h) motorcycles and quadricycles, $9.75 for a motorcycle or quadricycle with special license plates issued under 61-3-415 and, for a motorcycle or quadricycle under one-time registration, $9.75 in calendar year 2004 and, in each subsequent year, $11.25. This fee is a one-time fee, except upon transfer of ownership of a motorcycle or quadricycle.

(i) trailers and semitrailers between 2,500 and 6,000 pounds, $11.25. For a trailer or semitrailer described in 61-3-530(1), this fee is a one-time fee, except upon transfer of ownership of the trailer or semitrailer.

(j) trailers and semitrailers in excess of 6,000 pounds, other than trailers and semitrailers registered in other jurisdictions and registered through a proportional registration agreement, $16.25. For a trailer or semitrailer described in 61-3-530(1), this fee is a one-time fee, except upon transfer of ownership of the trailer or semitrailer.

(k) travel trailers, $11.75. This fee is a one-time fee, except upon transfer of ownership of a travel trailer.

(l) recreational vehicles, $3.50 in calendar year 2004 and, in each subsequent year, $9.75. If the recreational vehicle is a travel trailer, this fee is a one-time fee, except upon transfer of ownership of a travel trailer.

(2) (a) Except as provided in subsection (2)(b), if a motor vehicle, trailer, or semitrailer is originally registered 6 months after the time of registration as set by law, the registration fee for the remainder of the year is one-half of the regular fee.

(b) For a trailer or semitrailer described in 61-3-530(1), the applicable fees must be paid regardless of when the fees were last paid or if the fees were paid at all.

(3) An additional fee of $5 for a motorcycle or quadricycle with special license plates issued under 61-3-415 and, for a motorcycle or quadricycle under one-time registration, $5 in calendar year 2004 and, in each subsequent year, $16 must be collected for the registration of each motorcycle as a safety fee and must be deposited in the state motorcycle safety account provided for in 20-25-1002.

(4) A fee of $5 for each set of new number plates must be collected when number plates provided for under 61-3-332(2) are issued.

(5) The provisions of this part with respect to the payment of registration fees do not apply to and are not binding upon motor vehicles, trailers, semitrailers, or tractors owned or controlled by the United States of America or any state, county, city, or special district, as defined in 18-8-202.

(6) (a) Except as provided in 61-3-562 and subsection (6)(b) of this section, a fee of 25 cents a year for each registration of a vehicle must be collected when a vehicle is registered or reregistered. The revenue derived from this fee must be forwarded by the county treasurer for deposit in the state general fund for transfer to the credit of the senior citizens and persons with disabilities transportation services account provided for in 7-14-112.

(b) The following vehicles are not subject to the fee imposed in subsection (6)(a):

(i) trailers and semitrailers registered in other jurisdictions and registered through a proportional registration agreement; and

(ii) travel trailers, recreational vehicles, and off-highway vehicles registered pursuant to 23-2-817.

(7) (a) Except as provided in 61-3-562 and subsection (7)(b) of this section, a fee of 50 cents a year for each registration of a vehicle must be collected when a vehicle is registered or reregistered. The county treasurer shall forward revenue derived from this fee to the state for deposit in the general fund.

(b) The following vehicles are not subject to the fee:

(i) trailers and semitrailers registered in other jurisdictions and registered through a proportional registration agreement;

(ii) off-highway vehicles registered pursuant to 23-2-817; and

(iii) vehicles bearing license plates described in 61-3-458(3)(d).

(8) The provisions of this section relating to the payment of registration fees or new number plate fees do not apply when number plates are transferred to a replacement vehicle under 61-3-317, 61-3-332, or 61-3-335.

(9) A person eligible for a waiver under 61-3-460 is exempt from the fees required under this section.

(10) Except as otherwise provided in this section, revenue collected under this section must be deposited in the state general fund.

(11) (a) Unless a person exercises the option in subsection (11)(b), an additional fee of $4 must be collected for each light vehicle or truck under 8,001 pounds GVW registered for licensing pursuant to this part. The fee must be deposited in the state general fund to be used for state parks, for fishing access sites, and for the operation of state-owned facilities as provided in 15-1-122(3)(c)(vii).

(b) A person who registers a light vehicle or truck under 8,001 pounds GVW may, at the time of annual registration, certify that the person does not intend to use state parks and fishing access sites and may make a written election not to pay the additional $4 fee provided for in subsection (11)(a). If a written election is made, the fee may not be collected." Amendment effective January 1, 2006.

Pursuant to sec. 8, Ch. 500, L. 2005, a coordination section, in (7) inserted (c) concerning permanent registration of motor home 11 years old or older.

Section 58, Ch. 596, in (1) near middle substituted "renewal of registration" for "reregistration"; in (2)(d) before "$17" deleted "$13.75 in calendar year 2004 and, in each subsequent year"; in (5)(a) at end of first sentence before "$19.25" deleted "$9 in calendar year 2004 and, in each subsequent year"; in (6) before "$22" deleted "$18.75 in calendar year 2004 and, in each subsequent year"; in (8)(a) at end of first sentence before "$11.25" deleted "$9.75 in calendar year 2004 and, in each subsequent year"; in (1)(l) at end of first sentence before "$9.75" deleted "$3.50 in calendar year 2004 and, in each subsequent year" (amendment rendered void by Ch. 542 amendment); deleted former (2) that read: "(2) (a) Except as provided in subsection (2)(b), if a motor vehicle, trailer, or semitrailer is originally registered 6 months after the time of registration as set by law, the registration fee for the remainder of the year is one-half of the regular fee.

(b) For a trailer or semitrailer described in 61-3-530(1), the applicable fees must be paid regardless of when the fees were last paid or if the fees were paid at all"; in (2) near middle before "$16" deleted "$5 in calendar year 2004 and, in each subsequent year" (amendment rendered void by Ch. 542 amendment); in (12) near beginning after "$5"

deleted "for each set of new number plates", near middle after "collected when" substituted "a new set of standard license plates or a new single standard license plate" for "number plates", and near end substituted "61-3-332" for "61-3-332(2)"; in (5)(a) and (6)(a) at end of first sentence substituted "when registration is renewed" for "reregistered" (amendment rendered void by Ch. 542 amendment); in (7) in first sentence after "relating to" substituted "new standard license plate fees" for "the payment of registration fees or new number plate fees", near middle substituted "license plates" for "number plates", after "transferred" deleted "to a replacement vehicle", and deleted references to 61-3-317 and 61-3-332 and inserted second sentence concerning payment of fees if vehicle was not previously registered (amendment rendered void by Ch. 542 amendment); in (18)(a) and (18)(b) after "light vehicle" deleted "or truck under 8,001 pounds GVW"; in (18)(b) near middle after "to use" inserted "the vehicle to visit"; and made minor changes in style. Amendment effective January 1, 2006.

Section 149, Ch. 596, L. 2005, a coordination section, provided: "If Senate Bill No. 318 is not passed and approved and Senate Bill No. 285 and [this act] are both passed and approved, then subsection (12) of 61-3-321 contained in [section 148 of this act] is void and internal references must be adjusted and subsection (8) of 61-3-321 contained in [section 148 of this act] must read as follows:

"(8) (a) Except as provided in subsection (15), the one-time registration fee for motorcycles and quadricycles~~, $9.75 for a motorcycle or quadricycle with special license plates issued under 61-3-415 and, for a motorcycle or quadricycle under one-time registration, $9.75 in calendar year 2004 and, in each subsequent year, $11.25~~ registered for use on public highways is $53.25 and the one-time registration fee for motorcycles and quadricycles registered for both off-road use and for use on the public highways is $114.50. ~~This fee is a one-time fee, except upon transfer of ownership of a motorcycle or quadricycle.~~

(b) An additional fee of $16 must be collected for the registration of each motorcycle and quadricycle as a safety fee, which must be deposited in the state motorcycle safety account provided for in 20-25-1002."

Section 148, Ch. 596, L. 2005, a coordination section, provided that if Senate Bill No. 285 (Ch. 542), Senate Bill No. 318 (failed), and [this act] are all passed and approved, then [section 16] of Senate Bill No. 318, a coordination instruction, was void and 61-3-321 was to be amended. The code commissioner has included quadricycles as subject to the $16 fee to reflect the apparent intent of secs. 148 and 149 of Ch. 596.

The amendment to this section made by sec. 4, Ch. 500, L. 2005, was rendered void by sec. 8, Ch. 500, L. 2005, a coordination section.

The code commissioner has not codified the second sentence in (7) because the sentence was rendered meaningless by the changes made in Ch. 542. The sentence read: "Registration fees must be paid if the vehicle to which plates are transferred was not previously registered."

Applicability: Section 2, Ch. 325, L. 2005, amended sec. 50, Ch. 592, L. 2003, to read: "Section 50. Applicability. [This act] applies to:

(1) registration, reregistration, fees, and taxes on vehicles and vessels registered on or after January 1, 2004;

(2) vehicle counts for the purposes of 15-1-122(4), regardless of whether a vehicle was registered or reregistered prior to January 1, 2004."

Retroactive Applicability: Section 4, Ch. 325, L. 2005, provided: "(1) [Section 2] [not codified] applies retroactively, within the meaning of 1-2-109, to the registration, reregistration, fees, and taxes on vehicles and vessels registered on or after January 1, 2004.

(2) [Section 2] [not codified] applies retroactively, within the meaning of 1-2-109, to vehicle counts made after January 1, 2004."

NOTE: In (2)(b)(i) inserted "15-6-201(1)(a), (1)(c). (1)(d), (1)(e), (1)(f), (1)(g), (1)(i), (1)(j), (1)(l), or (1)(m)" and deleted reference to 15-6-288 that appeared in the 2005 MCA.

61-10-214. Exemptions. (1) Motor vehicles operating exclusively for transportation of persons for hire within the limits of incorporated cities or towns and within 15 miles from the limits are exempt from this part.

(2) Motor vehicles brought or driven into Montana by a nonresident, migratory, bona fide agricultural worker temporarily employed in agricultural work in this state when those motor vehicles are used exclusively for transportation of agricultural workers are exempt from this part.

(3) Vehicles lawfully displaying a dealer's or wholesaler's plate as provided in 61-4-102 and 61-4-125 are exempt from this part for a period not to exceed 7 days when moving to or from a dealer's or wholesaler's place of business when unloaded or loaded with dealer's or wholesaler's property only or while being demonstrated in the course of the dealer's or wholesaler's business. Vehicles being demonstrated may not be leased, rented, or operated for compensation by the licensed dealer or wholesaler.

(4) Vehicles exempt from property tax under 15-6-201(1)(a), (1)(c), (1)(d), (1)(e), (1)(f), (1)(g), (1)(i), (1)(j), (1)(l), or (1)(m) or 15-6-228(4) are exempt from this part. The department of transportation may require documentation of tax-exempt status from the department of revenue before granting this exemption.

History: En. Sec. 12, Ch. 219, L. 1951; amd. Sec. 1, Ch. 262, L. 1967; amd. Sec. 1, Ch. 46, L. 1973; Sec. 53-626, R.C.M. 1947; amd. and redes. 32-3319 by Sec. 183, Ch. 316, L. 1974; R.C.M. 1947, 32-3319(part); amd. Sec. 84, Ch. 421, L. 1979; amd. Sec. 3, Ch. 39, L. 1981; amd. Sec. 1, Ch. 311, L. 1991; amd. Sec. 12, Ch. 383, L. 1991; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 64, Ch. 18, L. 1995; amd. Sec. 30, Ch. 409, L. 1999; amd. Sec. 17, Ch. 532, L. 2005; amd. Sec. 8, Ch. 584, L. 2005.

Compiler's Comments

2005 Amendments — Composite Section — Code Commissioner Correction: Chapter 532 in (4) in first sentence after "(1)(g)" substituted "(1)(j), or (1)(k) and 15-6-228(4)" for "(1)(o), (1)(q), and (1)(v)". Amendment effective October 1, 2005.

Chapter 584 in (4) in first sentence after "through" deleted "(1)(e)", after "(1)(g)" substituted "(1)(i)" for "(1)(o)", after "(1)(q)" inserted "(1)(s)", and after "and" substituted "(1)(x)" for "(1)(v)". Amendment effective May 6, 2005.

Retroactive Applicability: Section 10, Ch. 584, L. 2005, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to property tax exemption applications made after December 31, 2004."

NOTE: In (4) inserted "15-6-201(1)(a), (1)(c). (1)(d), (1)(e), (1)(f), (1)(g), (1)(i), (1)(j), (1)(l), or (1)(m) or 15-6-228(4)"; language was not included in the 2005 MCA.

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